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Selling knowledge: A sociological analysis of attorney advertisement in Las Vegas

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SELLING KNOWLEDGE: A SOCIOLOGICAL ANALYSIS OF
ATTORNEY ADVERTISEMENTS IN LAS VEGAS

by

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Bachelor of Arts
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1999

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A dissertation submitted in partial fulfillment
of the requirements for the

Doctor of Philosophy in Sociology
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THE GRADUATE COLLEGE

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ABSTRACT

Selling Knowledge: A Sociological Analysis of Attorney Advertisements in Las Vegas

by

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I analyze how Las Vegas attorneys represent themselves, their associates and clients in televised law firm commercials. I use attorney commercials as a case to explore cultural beliefs in media representations. Using an inductive method, I analyze the textual, visual, and aural symbols that appear most frequently in television commercials to interpret how law firm advertisements convey themes of attorney expertise, knowledge, ethnic and gender stereotyping. I introduce this study with a historical evaluation of the rise of advertisement in the United States. I continue discussing how the media is an important realm of discourse that affects people's identity. Using examples of attorney advertisements, I explain gender and ethnic representations, how attorneys construct their image, and the use of dramatic presentations. In the methods section, I explain the two approaches I used: First, a quantitative evaluation of 504 hours of television programming from January 11 to February 18, 2006, distinguishing the number of attorney commercials vs. other products and services; second, a qualitative evaluation identifying common themes in attorney commercials relating those to broader sociological theories. I conclude my evaluation suggesting the use of alternative media to inform the public of their legal rights, and suggest that statistical data on law firm performance and consumer satisfaction need to be available in public records.

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CHAPTER 1

INTRODUCTION

Law firm advertisements occupy a prominent place in the contemporary media landscape. Attorney ads are the third largest type of advertisement aired on television. The first law firm advertisement published in a magazine appeared in 1875 and was severely criticized by the legal community. Attorney advertisements on television are a relatively recent phenomenon, but they remain controversial. They claim to provide useful information to consumers regarding legal products but I shall argue here that this is not the true purpose of these ads.

In this dissertation, I analyze how Las Vegas attorneys represent themselves, their associates and clients in televised law firm commercial ads. I analyze the textual, visual, and aural symbols that appear most frequently in law firm advertisement in order to interpret how these ads convey themes of attorney expertise, power, ethnic stereotypes, gender disparities, legal issues, and law firm ethics.

Historically, law firm advertisement has generated a great amount of discussion among attorneys and from the public. Over the years, attempts to promote law firms as business came into conflict with the solemn image of attorneys as if promoting one's business would diminish and degrade the professional image of attorneys. But changes in society from the 19th to the 20th century—e.g., the impact of the industrial revolution, migration and social mobility, the massive sprawl in communications, the omnipresent use of marketing techniques in the media, the rise of television, and the increasing number of attorneys graduating from universities across the nation—facilitated a more lenient and commercially oriented perception about law firm advertisement. The case

Bates v. State Bar of Arizona (1977) opened the market for attorneys who started promoting their business using a variety of creative marketing techniques, marching parallel to product advertisement.

Purpose of the Study

In this study, I explain the sociological meanings and implications behind attorney advertisements through the combination of the theoretical approaches in media-law-and-society. Given the impact of industrialization on the political, economic and social changes of the twentieth century, and specifically the economic growth and political stability in the United States, the legal system shared the momentous prosperity expanding on areas of personal injury and migration while becoming increasingly turgid and complex. Competition among attorneys –newly graduates as well as those already established—found in advertising a chance to follow the rhythm of a society that had already commodified different aspects of social life. The move to advertising law firms symbolized the transition of transforming the primarily social function of the legal system to the commercialization of law, from societal service to business for profit.

Television provides a frame of reference that viewers use to shape their identities and construct perceptions of others based on interactions, customs, and other social behaviors presented systematically in traditional media¹ portrayals. Advertising claims to provide information regarding products and services useful for consumers. Specifically in relation to law firm advertisement, the court decision to allow attorney advertisement centered on viewer's right to receive information regarding legal opportunities. However, this is not the purpose of advertisement. Advertisements are not designed to inform

¹ I make a distinction between traditional media, e.g. television, newspapers, advertisements, films, and media in general that includes Internet use and other new technologies.

people of their available choices, advertisements sell audiences' attention to companies to get them to purchase products and services. Through a number of strategies, such as, manipulating fears, creating desires, and building upon ignorance, advertising promotes sustaining a culture of consumerism convenient for those whose interests benefit from viewer decisions. The purpose of this study is to demonstrate how these strategies work via a content analysis of legal advertisements in terms of various sociological categories.

Being exposed to the barrage of commercials, the viewer may also form a distorted notion of how law works, the difficulties of predicting outcomes, the uncertain time frames, and the real cost of redeeming ones legal rights (see Pfau, Mullen, Deidrich and Garrow:1995). Being the third largest type of advertisement in Las Vegas, attorney commercials inform the public regarding their position in society, their opportunities and options when facing the law, and how to proceed when facing specific cases of migration, personal injury, IRS disputes, bankruptcy, and social security benefit disputes. All these examples are represented in attorney advertisements, with the overall message that these types of problems *could only be resolved* through the assistance of attorneys. This type of perception is grounded in culture. Our interpretations and perceptions of reality are bound by culture and vary across time, although concern for understanding the world around us has been in question since the times of Plato. Ewen and Ewen explain (1992):

This question stands at the heart of Plato's often-cited 'parable of the cave,' which appears in *The Republic*. In the parable, Plato describes human life as if it were lived 'in a sort of underground den.' Inside the den, people's eyes are averted from the mouth of the cave, turned toward its innermost wall. Their perception of the world outside is perpetually indirect, limited to the shadows that play upon the wall. Though only a

mediation of the actual world, to the person inside the den these shadows constitute ‘reality.’” (P. 189)

Our contemporary world faces a stronger challenge as mediated images create and recreate the world in infinite number of ways. The challenge is to understand how these images and messages affect people’s understanding and perceptions of reality, and how they may contest information that comes through the media. Ewen and Ewen (1992) give details of the allegory of the cave applied to traditional media representations explaining that, “Life is lived deeper and deeper within the cave, while the shadows cast by the media grow more numerous, more authoritative, more alluring. It is little wonder that historians and cultural analysts have, in the past twenty-five years, zeroed in on ‘the problem of representation’ as the cardinal issue of our time” (p.190).

The following is a summarized explanation of Ewen and Ewen’s (1992) cultural arenas existing in the United States. In their study of traditional media and society, they found three cultural arenas that prevail in our society: culture of choice; culture of violence; and culture of ignorance. These three arenas inform this study and provide a framework that embraces the overall analysis.

Cultural Arenas in the United States

Ewen and Ewen (1992) focused on three predominant characteristics that esteem out of their analysis of cultural arenas in American society. The first is what they call a *culture of choice*, which traces the ability of marketing agents of socialization to penetrate every aspect of human lifestyles and the wide variety of advertising campaigns that target people toward consumption. They affirm that, “Every moment of human perception is viewed, by marketers, as a potential media opportunity, a point of contact for advertising” (p.195). Advertising is consider misleading and unethical when it

debilitates the human spirit and works on people's fears and emotions forcing the idea of buying to compensate for those weaknesses. Schudson (1984) considers that advertising is deceiving or misleading when it "persuades [people] by a variety of emotional means to buy things that they would not, rationally and independently, choose to buy on their own" (p.16). The idea of choice is in itself a satire when considering that viewers have no choice outside of mass consumption, people know the choices of consumption but do not know how to live without consuming. People spend time and money sustaining their interest with the different media. Television and films have created a community of celebrities and a fantastic world that audiences want to share. According to Gergen (1991) "Millions are spent each year on magazines, books, posters, T-shirts, towels, and photographs bearing likeness to the favored idol" (p. 56).

Some attorney advertisement follows a similar presentation, in that lawyers elevate their status as celebrities competing not based on their legal expertise, but on their image and catchy phrases. The pervasiveness of attorney ads saturates the public with presentations that influence an emotional response. Ewen and Ewen asserted that people may not know how to live without consumption, similarly, television viewers watching frequent attorney ads may not know of alternative options to act in case of a car accident, more since there are no options broadcasted or publicly distributed to counteract the influence of attorney ads.

The second cultural arena presented by Ewen and Ewen (1992) is the *culture of violence*. This is a reflection of city life, where people are strangers to one another. Traditional media reproduce the scenario of disconnectedness recreating a reality saturated with stereotypes that change according to political and social views. According

to Ewen and Ewen, “While the majority of crime in America is perpetrated by whites, the media promote the hallucination that crimes of violence are mainly the province of dark-skinned people” (p.205). The same holds true to the representations of other races and ethnic backgrounds, the roles of males and females, and the behavior of the elderly, where traditional media present images of a chaotic behavior that departs from everyday realities. Television programs, news articles, and films feed on the fear of the public creating a culture of violence that either results on a desensitized audience or a fearful distrustful viewer.

The apparent familiarity with media personalities experienced when frequently watching television creates the illusion of closeness; viewers react to celebrities as if they knew them (See Gergen 1991; Schickel 1985.) Extreme examples of confusion when people cannot distinguish reality from fiction and engage in irrational –and in occasions violent—behavior following the illusion of knowing a celebrity have been documented. Indeed, Gergen (1991) recalls: “...John Lennon was killed by an unknown fan, President Reagan was shot by John Hinckley [imitating a scene from the film *Taxi Driver*], and the television star Rebecca Schaeffer was killed by a fan who had written unanswered letters to her for two years” (p.56).

Attorney advertisements replicate the existing stereotypes in our society. Gender disparities where females are represented in subordinated roles and/or less knowledgeable in comparison to males; and illegal immigration as the most common representation of the Hispanic community are examples of law firm advertisements that replicate existing stereotypes in our society. Attorneys recreate violent and scary scenes representing a chaotic situation that could only be resolved through legal representation. The use of

music, slogans, funny or absurd situations, and celebrity-like performances seem to elevate the status of attorneys recognized for their image rather than their legal expertise.

Ewen and Ewen's (1992) third analysis talks about the *culture of ignorance*, perhaps the single most pervasive and difficult to identify. Audiences are bombarded by messages that speak of the life of celebrities becoming intoxicated with trivial issues rather than paying attention to political, social, and economic matters of local, national, and international importance. This numbing in the experiences of people is dangerous for a number of reasons. A democratic society works better when people are informed of their options, however, the public knows more about celebrity lifestyles than political issues that affect their lives. Political campaigns are strategically building on the impact of phrases advertised to gain votes, rather than explaining their political agendas and goals. People are becoming less and less tolerant to receiving information through the media, and as such, traditional media are becoming more and more an agent of socialization for entertainment rather than fulfilling its function as an information tool. The media's sedative power transforms it into an instrument of domination and control at the service of capitalist expansion. Ewen and Ewen (1992) quoting from Marcuse's *One Dimensional Man* assert, "Free choice among a variety of goods and services does not signify freedom if these goods and services sustain social controls over a life of toil and fear—that is, if they sustain alienation" (p. 220; see also Marcuse 1964).

The culture of ignorance incorporates all the arguments presented in this discussion. *Attorney advertisement competes against no other sources of information*—and this includes online sources. People may opt not to call an attorney and may decide to take their case to Court on their own, but the chances and available information of

possible steps and legal access are not as widely distributed. Attorneys keep pounding the message in their commercials that personal injury cases are difficult, that people may lose their case even if they consult with an inexperienced attorney, that clients could earn more money if consulting with the right attorney, and that people may suffer the consequences of not consulting with lawyers and decide to take action on their own. Whether or not this is true, the point I argue is that this is not a reflection of a democratic society. Information and legal rights should not be expected only when mediated through a law firm. Attorneys present themselves as the *deus ex machina* figure that resolves all issues with ease and knowledge not available to the general public. The legal language, turgid and cumbersome for the majority of people outside of the legal community, helps to maintain lawyers in their privileged position as holders of knowledge.

In many occasions, a prospective client who makes an appointment with a lawyer in personal injury or immigration cases will not have contact with the attorney her/himself, but will be in contact with legal assistants or other lawyers in the firm. The procedures and paperwork that needs to be filled out in a systematic manner for most cases are kept outside of the knowledge of prospective clients. Had they any knowledge of the steps to follow these procedures, and had they some assistance in handling these steps without lawyer mediation may encourage people to take action on their own. If laws were clearly spelled out with the intent to protect personal injury victim's, and if procedures were available to the public rather than protected from public view, people would have a choice. But these are not the options in our society, our society sacrifices distributing information to the general public in order to protect attorneys in their business.

Methodology

I focus both on the macro levels (e.g., gender, ethnicity, professional ethics, and problems in society) and on how the macro factors are manifested and brought into play at the micro level (e.g., the manner in which individuals are portrayed.) I combined quantitative and qualitative data collected from January 11, 2006 to February 18, 2006. I recorded 504 hours of television programming from seven television stations. I created two data sets: First, a record of all attorney commercials aired in five weeks; and second, a record of seven non-consecutive days considering all types of commercials in seven different television stations. I used the first data set to establish the timing between one attorney commercial and the next aired on the same television station, and to create a list of all the different attorney commercials on the air during the dates of observation. I used the second data set to establish the pervasiveness of attorney commercials in comparison to other commercials aired during this period. From the data collected, I arrived at the conclusion that attorney advertisement is the third largest seen on television during the dates of observation.

Qualitatively, I examined each different attorney commercial to observe the most common themes. Using an inductive approach in content analysis, I created a list with the most notorious visual, aural, and textual messages and identified patterns that could be analyzed sociologically. I arrived at five common characteristics explained as chapters in this dissertation: constructing an image, gender representations, ethnic proximity and immigration, culture of fear, and laws and ethical issues.

Structure of the Study

In the second chapter, I explain the theories I use as framework for this dissertation. I start with the role of traditional media in influencing people's identities and decisions. I center my study in attorney commercials presented in television and I seek to explain how this medium informs and instructs viewers regarding their options. The history of advertisements and the role it plays in our society is of interest considering that the format of presentation in product advertisement and lawyer advertisement are similar. Lawyer advertisement has been controversial over the years and continues being a source of discussion in the legal community and according to public perceptions. In Las Vegas, during the observations for this study, I found that only 50 attorneys advertised. This number is relatively small considering that there are approximately 10,300 licensed attorneys in Las Vegas. In this chapter, I include a discussion of power emphasizing how the language helps to create the boundaries of knowledge and how networks and institutions support a hierarchical structure.

In the third chapter, I present the methodology used in this study discussing the main quantitative findings. In chapter four, I summarize the main quantitative findings in this research project. I present the qualitative findings as common themes in five separate chapters. In the fifth chapter, I discuss the manner in which attorneys construct their image. I present different types of presentations: (a) the respectful attorney who presents his/her image as if distributing a business card; (b) sympathetic presentations when lawyers speak as if they could place themselves in their clients' shoes; (c) friends or family, depicts the idealized version that a lawyer will treat the client as if they had some kind of familiarity or bonding; (d) withdrawn, or absent is characteristic of lawyers who

are physically, emotionally removed from a scene presented in the commercial, or that present a misalignment between what they say and how they are depicted; (e) the patriarchal/ client as child-like or condescending view, denotes the attitude of the attorney to present him/herself as a father-figure while the client is child-like, not able to function without a lawyer; (f) abusive representation portrays a client or implies a viewer in disadvantage, reduced in character or physical strength in comparison with the attorney; (g) celebrity status is a representation that fabricates a character, removed from legal expertise, but who becomes an image, name, symbol, or slogan well-known and recognized in the community.

A common link in attorney presentation of self is the representation of power. Attorneys sustain themselves in the community thanks to their knowledge of legal language and networks, which is not inherently negative since many other professionals—e.g., engineers, architects, physicians, construction workers and others—invest time and effort preparing themselves in competent careers, and most professions require the specialized dominion of a language common to members of such community and not shared by others. The difference I find is that other professionals do not boast about their knowledge. Architects, doctors, and engineers do not speak on television advertisements making an emphasis on what others do not understand. For this reason, and to present a visual representation of portrayals that combine power, knowledge, and secrecy I chose the name *deus ex machina* as symbolic of god-like figures that operate in a world that others could not access. In some law firm advertisements, attorneys build upon the characteristics of the *deus ex machina*, being more powerful, wiser, stronger, and knowledgeable than viewers or clients. The most intriguing aspect in the use of this

representation is that this is portrayed as a role already established and accepted in our society.

In chapter six, I discuss gender representations in attorney advertisements. I pay attention to the manner in which male and female attorneys, clients, and legal personnel are represented in commercials. I compare male and female attorney representations and found disparities not only in the number of female vs. male attorney representations but in the manner in which they assert their knowledge. I compare female and male clients and personnel presentations paying attention to the roles they play on television, their outfit, posture, and other indicators of stereotypes. The language, activities portrayed, attitudes, tone of voice, and physical appearances are sources of information.

In chapter seven, I discuss ethnic proximity, legal status and immigration. I explain that attorneys attempt to establish proximity with the Hispanic community when they speak Spanish, translate messages, assert that they are of Hispanic origin, or depict themselves with other people of Hispanic origin. In these commercials, the intention is to target the Hispanic population for immigration and personal injury cases. In this chapter, I study the issues, statistics, and laws that affect immigration cases. I discuss OSHA cases that are not profitable for attorneys who advertise, and yet, injuries and illness at work are the most underreported and problematic cases.

Inspired by Barry Glassner's book, *Culture of Fear* (1999), I used the same name in chapter eight. In this section, I discuss common contemporary fears and the manner in which attorneys replicate these perceptions in their advertisements. Some attorneys use scenes of crime, accidents, symbols of power and powerlessness, sounds and replicas of fatal consequences that go to the extremes of portraying graves, dead bodies on the road,

victims, sirens, and all sorts of representations inducing fear to gain viewers' attention. The intention is to weaken people's ability to reason and force an emotional response. This type of strategy is similar to product advertisement that works on people's fears and insecurities to present the product as the only alternative and effective solution.

In chapter nine, I discuss legal and ethical issues depicted in attorney commercials. In their advertisements, attorneys point out some problems in society: laws need revision, institutions may interfere with people's rights, and/or other attorneys may not be competent and damage a client's case. In addition, attorneys indicate that other lawyers may not treat a client with respect, may not speak the same language as the client (mostly referring to Spanish). Attorney commercials may use any kind of presentation, even when the visual and aural representation might be misleading to the public. As such, attorneys exaggerate their capabilities, promise reduced fees that are not clearly explained, and offer participation of a number of lawyers that might not come in contact with a client. Another ethical aspect that I consider in this chapter is the commercialization of law. First, attorneys seduce viewers with the promise of money, making an analogy between their services and making a larger profit for the client, using symbols of money and wealth as if a personal injury or bankruptcy case could be an opportunity to make money. Second, some law firms scout for clients who have used a certain product inducing them to call and sue, or requesting a fast and prompt reaction. In chapter ten, I draw conclusions, and suggest alternatives for future research.

Conclusion

In comparison to printed media, television advertisements might not be the best medium for attorneys to educate the public regarding their legal rights. The key issue in

this debate is the format of television commercials that is not conducive to explain legal options. Television commercials need to inform the viewer in a brief and limited period of time conducive to make an impact, influence decision, and persuade allegiance or preference for a product. However, legal advice and discussion over legal services are so complex and different from each other that the time-frame provided on television departs from any valuable type of legal information. The purpose of attorney advertisement is to expose and familiarize the viewer with an image (attorney, group of lawyers, logos,) create an exacerbated situation that replicates a existing problem (personal injury, immigration, DUI arrest,) present a persuasive and catchy slogan to influence viewer decisions, in the same manner that product advertisement influences consumer preferences. In the meantime, viewers have no access to other sources of information regarding these “products” and in the event of making a decision and choosing an attorney who advertises the viewer could not compare information regarding the effectiveness, ethics, and client satisfaction history of other people when hiring an attorney. In fact, there are no other options or alternatives to hire an attorney that are as widely diffused as law firm advertisement. Lawyers who advertise monopolize the distribution of ideas in regards to what a person could do in case of personal injury, in case of facing immigration problems, and other examples. The boundaries between media studies and sociology merge in the intention to uncover how traditional media affect individuals, society and culture. This study seeks to explain this controversy presenting a view of the most common themes in attorney advertisement while suggesting how these are mirror reflections of society.

CHAPTER 2

LITERATURE REVIEW

In this chapter, I introduce the theoretical and historical background that helps build the foundation to evaluate attorney commercials. I introduce the chapter explaining the role of the media in shaping people's decisions and identity. Although I am not predicting how people might react when watching attorney commercials or in the event of facing legal problems, the continuous information presented in televised attorney advertisements might influence viewers regarding their options, which extends on theories regarding the role of the media and advertisement in particular.

I continue the chapter examining the historical, social, and economic conditions that facilitated the emergence of attorney commercials in the United States, and the controversies regarding law firm advertisement in Las Vegas. Attorney ads are relatively new within the history of advertisement and their use has been contentious both inside and outside the legal community. The rhetoric in attorney commercials—associating the possibility of earning a profit through attorney representations—and marketing strategies in law firm advertisements are evidence of the commercialization of law and its transition from social service to business for profit.

The last section in this chapter focuses on power. Power in this chapter is explained as the ability to feed information through attorney advertisements and the hegemonic and unique advantage attorneys possess to mediate personal injury, migration, and bankruptcy cases in our society. The use of legal language, the lack of community services, lawyer attitudes, and our social structure promote an advantageous and more powerful position that stratifies our society with the dividing line between those who

posses knowledge and those who do not. The emphasis here is on the limitations in society that reflect on the overall American legal justice system.

Identity, Social Construction of Reality, and the Role of the Media

The self is understood as a process (Mead 1967, Hall 1990) shaped by interactions with others in groups (Mead 1967:164), working conditions (Marx 1959, Faludi 2000), economic factors (Marx 1959), lifestyles and events (Giddens 1991), culture (Lull 1995:157), collective spaces and individual self-reflection (Bourdieu 1990:110, Mead 1967). For postmodernists, the self “has disappeared—if, indeed, it ever existed” (Hewitt 2007:25). The reason for such claim is the complexity of our social world and the proposition of thinking about the self as an irrelevant claim given the multiplicity of assumptions, theories, methods that have been used to explain the self as a category.

As people go through the process of constructing their self they construct an identity. Identity is constructed through the different roles we hold in society that informs who we are. According to Hewitt (2007), “Identity is primarily a matter of establishing and maintaining social location. Situations and their roles (and other perspectives) provide a way for people to locate themselves relative to one another” (p.95). The concept of identity is fairly tied to our social location, and informed by the lifestyle and culture available. Taking into account that identities are informed by social location Woodward (1997) argues, that “identities are determined by more than class, economics and lifestyle. At a deeper level, identities are also derived from nationality, ethnicity, social class, community, gender and sexuality” (p.1). Identity for García Canclini (2001) is not homogeneous. Large cities are fragmented according to class, age, preferences, etc. We cannot talk about local preferences such as music or clothing, or even food

preferences without paying attention to the identity divisions within the local. Garcia Canclini (2001) explains:

If social science is to say anything significant about identity-formation processes in an age of globalization, it will have to attend to the heterogeneity and coexistence of various symbolic codes in a group and even an individual subject, as well as discern intercultural borrowings and transactions. Identity today, even among broad sectors of the popular classes, is polyglot, multiethnic, migrant, made from elements that cut across various cultures. (P.91)

In relation to our perceptions of reality and considering that our activities influence identity, Berger includes the role of traditional media as a source of influence. Berger (2007) explains, “The media help shape our identities, our attitudes toward racial and ethnic minorities, and our attitudes about sexuality” (p.17). Traditional media are the main source of information for articles of consumption. People need to find “meaning” to form an identity; people consume products to create a differentiation from others in society. The meaning of articles that people possess (or wish to possess) has a collective meaning already established in society. People create their identity by surrounding themselves with these objects, knowing that others can interpret their meaning.

How we “think” about products and services available, how we react to signs and symbols is part of our culture. According to Berger (2007), “If signs are to be meaningful, there must be a society that, one way or another, teaches people how those signs are to be interpreted. The meanings of signs are not natural but determined by society” (p.23). Garcia Canclini (2001) extended this idea to the formation of a globalized system that informs and integrates viewers across the nations of alternative lifestyles, articles of consumptions, and services.

Social Construction of Reality and the Media

The realities that we take-for-granted are “socially constructed” (Berger and Luckmann 1967). A reality, according to Berger and Luckmann (1967), is a “quality appertaining to phenomena that we recognize as having a being independent of our own volition” (p.1). The world that we perceive as real is the world that we have inherited. Existing social patterns, institutions, behaviors, social interaction, language, gender expectations, cultural expressions and manifestations are social constructions. Our world and society, as we know it, is grounded on historical and cultural observations (Gergen 2001; Burr 2003) interpreted, sustained, and replicated by those who share the same beliefs. What we know as “real” may not be considered a reality in a different culture. Realities are understood in a situated context. “Social constructionists look at social existing patterns or forms of behavior and try to show how they might have developed differently” (Hewitt 2007:22).

For Berger and Luckmann, “reality is created through the process of communication” (Johnson-Cartee 2005:1). The words we have available in the process of communication influence what we know and perceive. The Sapir-Whorf hypothesis informs that “Social constructionism focuses on the language used in a given culture, for the culture’s language determines to a large extent what can be known and what can be achieved by a society” (Johnson-Cartee 2005:4). Phenomenologist Alfred Schutz also contributed to social constructionism placing an emphasis on context and how people think of their past, present and future when taking decisions. People make an assessment of the situation evaluating their own experiences.

In our society, media play an important role in the process of communication, as media reproduce, shape, and transmit many aspects of reality. Media establish “knowledge” in and about society. As audiences interact with the media, they process the information, adopt new patterns of consumption, shape their identities, and change the dynamics of their interactions. According to McLuhan and Fiore (1996), “The medium...is forcing us to reconsider and re-evaluate practically every thought, every action, and every institution formerly taken for granted. Everything is changing-you, your family, your neighborhood, your education, your job, your government, your relation to ‘the other.’ And they’re changing dramatically” (p.8). Regarding the effects of television, Adorno (2001) explained:

The effect of television cannot be adequately expressed in terms of success or failure, likes or dislikes, approval or disapproval. Rather, an attempt should be made, with the aid of depth-psychological categories and previous knowledge of mass media, to crystallize a number of theoretical concepts by which the potential effects of television – its impact upon various layers of the spectator’s personality – could be studied. (P.159)

The process of information production operates in a dialectical manner: traditional media construct messages inspired by information already existing in society, and audiences respond by interpreting, adopting, learning, refusing or internalizing those messages. The power of traditional media is its pervasiveness and ability to send messages unilaterally. Although it is recognized that audiences are not passive in their interpretations, traditional media as sender of messages have an advantageous standpoint to influence viewers.

Interpreting Traditional Media Messages

In his study of media messages, Stuart Hall (1973) differentiated between two meanings: the encoded meaning that initiates in the production side or sender, and the decoded meaning that is interpreted by the audience or receiving side. Both sides carry frameworks of knowledge, structures of production, and technical infrastructures (p.4). According to Stuart Hall, this communication process is “iterative,” meaning that both sides can influence and affect the other. An important part of the process is the degree of “symmetry” and “identity” (Hall 1973:4) between the two meanings. The codes are not always systematically identical or interpreted as the sender of the message intended. The lack of symmetry between the source and the receiver is called “distortion or misunderstanding” and it “arise[s] precisely from the lack of equivalence between the two sides in the communicative exchange” (Hall 1973:4).

The meanings and significance we place on the advertised products are not inherent to the object themselves. As Kuhn explains, “Ideological meanings ‘do not reside in images... [but] are circulated between representation, spectators and social formation’” (Goldman 1992:2). Understanding how media messages shape identity and inform viewers is complex. Messages cannot be understood without looking at the layers of meaning that appeal and make sense for the viewer individually and collectively. Individual meaning refers to how the person makes sense of the message; collective meaning refers to how the viewer will interpret the message taking into consideration the manner in which society interprets the message. The viewer access the cultural meaning, the one that has been established in society, and based on those expectations and common

understandings reflects on what the message means for him or her. Hall referred to this process identifying four levels of audience *decoding*:

(1) *dominant or hegemonic code*: interpretation based on dominant shared meanings; (2) *professional code*: the broadcaster reaches for a message that has been already signified, s/he knows the implied meaning; (3) *negotiated code*: combines adaptive and opposing elements; (4) *oppositional code*: the viewer knows the intended meaning but decodes the message in a contrary or opposing manner (Alasuutari 1999:4; see also Hall 1973).

Adorno (2001) identifies the power of traditional media to play on different levels of signification. He refers to the “multilayered structure” (p.164) of messages that “enthrall the spectators on various psychological levels simultaneously” (p.164). This concept enhances traditional media’s ability to exert an influence, attributing control over the identity of the viewer. Adorno (2001) proceeds to explain the “polymorphic” and “calculative nature” in mass media, where “the hidden message may be more important than the overt, since this hidden message will escape the controls of consciousness, will not be ‘looked through’, will not be warded off by sales resistance, but is likely to sink into the spectator’s mind” (p.164-5).

Goldman (1992) pays attention to how advertisers combine different levels of meaning that are understood in context. Goldman (1992) shares the impression that the medium reaches levels of signification and constructs a product that appeals by manipulating the juxtaposition of “*frames*”:

As a system of signification, advertisements compose connections between the meanings of products and images. The organization of meanings in ads is governed by *frames*. To study ads is to study the framing of meaning...Advertisements photographically isolate

meaningful moments, remove them from their lived context and place them in the ad framework where their meaning is recontextualized and thus changed. (P.5)

The realm of advertisers is the realm of “*reframing meanings*” (Goldman 1992:5).

For Goldman, the purpose of this reframing is to transform the identity of the viewer from mere spectator to consumer. Advertising reaches into the viewer’s need for acceptance, appealing to emotions, suggesting situations, gratifying with products, presenting alternative lifestyles, creating a desired self, debilitating their self-confidence combining multiple strategies to present a commodity as an answer. Goldman (1992) explains:

Ads arrange, organize and steer *meanings* into *signs* that can be inscribed on products – always geared to transferring the value of one meaning system to another. In this way, advertising comprises a system of commodity-sign production designed to enhance the exchange value of commodities, by differentiating the meanings associated with each commodity. A commodity-sign is the image that attaches to a product –e.g., the functional utility of a *Rolex* watch is supplemented by its image of affluent status. The *Rolex* watch has not only become a sign of affluence, its sign value now socially eclipses its utility as a timepiece. When signs are defined as real, they are real in their consequences. (P. 5-6)

Advertisements are the vehicle to transform the value of an object, creating a transition between the use-value and exchange-value. “In advertisements, we can see images of commodified social relations, a popular consciousness of social relations structures by the commodity form” (Goldman 1992:16). Advertisements present the images associated with the meaning that products and services provide linking those to the ideals of success, power, and status.

Lull (1995) has a more skeptical view on the intentions of the media to replicate society and gives more credit to the ability of viewers to interpret a message. He explains, “Media programmers have no interest in reflecting or creating reality. What they do instead is piece together symbolic fragments to produce stories that resemble our surroundings in some ways and not in others” (p. 74). The persuasive aspect of traditional media faces a viewer with a wide range of options according to Lull. The viewer in Lull (1995) is actively constructing its environment. He mentions that people are engaged in their cultural contexts, as such “we all have subcultures of the self and the capacity to reinvent the symbolic representations and cultural patterns we encounter” (p.86).

The active role of viewers is not only an expression of personal desire, but the result of a person’s background. People from different races, ethnic backgrounds, socio-economic status, gender, political affiliations, religious beliefs, ages, and others cannot be understood under the common label *viewer*. Different people would *decode* a message differently. Having access to the same message does not imply that there could be a generalized manner to understand the message. People will see what they have learned to see, or what they want to see. The Uses and Gratifications approach takes in consideration “the existing constructions of meaning” (Kubey and Csikszentmihalyi 1990:32). Meaning for each individual is experienced differently. Each individual understands content and form according to his or her own experience. According to this approach “audience members are not thought to be passive receivers or victims of mass media, [instead]...people actively *use* the mass media to *gratify* particular, specifiable human *needs*” (Lull 1995:90). The problem with this approach, as Lull identifies, is the

emphasis on *needs*. “Needs are influenced by culture not only in the ways they are formed, but in how they are gratified too” (Lull 1995:99).

History of Advertisement

The history of advertisement in the United States follows social, political, and economic changes. In this section, I trace the impact of industrialization that prompted mass production and mass consumption, and the emergence of the advertising industry mediating information between consumers and producers by instructing the public on new goods and services. Using Ewen and Ewen (1992) analysis of advertisements, I point to three aspects in the emergence of advertising: Advertisement as a product of industrialization; the psychological dimension of advertisements; and the political endeavor behind advertisement. Next, I examine the rise of television, and the conditions that prompted attorney advertisements on television.

Advertisement as a Product of Industrialization

The Industrial Revolution brought a number of technological and industrial innovations that shaped people’s behaviors, interactions, and consciousness. In the 1800s people marveled at machine exhibitions witnessing the changes in industrial society that symbolized the supremacy of humans over nature. Machines symbolized the coming of a new era, with increased productivity, economic benefits, and challenges fit for human’s “rational essence” (Gergen 1991:36-41). A new feature that became of great consequence among entrepreneurs points to the importance of knowing the essential characteristics and uses of those new technologies. Mass production without distribution of information would not be as effective; it is the combination of new technologies with the emergence of the printing press what guaranteed the growth and widespread of a capitalist mentality.

Ewen and Ewen (1992) affirm that, “To a large extent, the history of printing coincides with the history of an emergent world commerce; they were often intertwined” (p.4). The printing press became a tool for the spread of knowledge, accessible to a large majority of people.

Certainly, the invention of the printing press was a crucial step toward democracy and an opportunity to the flow of political, economic, and social ideas. Newspapers were sites for all sorts of information regarding different aspects of urban life. Alongside with politics, social issues, and popular messages, the widespread of information regarding new technologies and products was the dissemination of what Ewen and Ewen (1992) call “commercial intelligence” (p.10) a new arena for the interaction between buyer and seller shaping, building, and reproducing the capitalist-market scenario.

From the nineteenth century to the turn of the twentieth century, people were exposed to the innovations through written information that spoke of the characteristics and advantages of machinery and immense amount of commodities produced. According to Lipovetsky (2005) the historic transformation between 1880 and 1950 with its increase in production, rapid development in transportation, and communication gave an impulse to “the appearance of the great mercantile techniques that characterize modern capitalism (marketing, supermarkets and department stores, the emergence of brand names, advertising)” (p.9). Massive consumption and modern advertising are products of the twentieth century (Ewen 1976) intended to inform people of new developments as well as supporting the emerging industrial growth.

Psychological Dimension of Advertisements

In the United States during the early twentieth century, immigrants from different nations were trying to adapt to the new world establishing new communities, merging their existing traditions with the demands of a growing nation, learning to shape their identities while interacting and changing the existing local arenas. In a time when the United States became the melting pot of different voices, films joined people together in the common experiences represented in silent films. The movie theatre became the site for the integration of various people, where immigrants were exposed to the American ways of social interaction, where workers released their personal troubles immersing in the fantasy of the characters that sometimes were a mirror reflection of their social and economic conditions, and where people achieved a sense of community by sharing reactions to the films (Ewen and Ewen 1992). Along with these reactions to silent films, people were getting information on the dividing lines of social status and the symbolic meanings attach to products of consumption displayed by the characters. Although not as overt and explicit as those present in contemporary films, the process of learning about products through visual media was immersing in people's consciousness.

From small towns and villages to the rapid newly urbanized cities, the American lifestyle gave way to new patterns of consumption, informing all people of new *desired* products, standards of living, and attitudes toward consumption. As Barthel (1988) explains, "Old ideas about one's proper place or station in life eventually gave way in face of new desires for an improved living standard. America in particular glorified the desire of the common man to make it big" (p.16).

The changes in lifestyles of the 1900s implied purchasing rather than producing. Ewen and Ewen (1992) assert, “The home had ceased production; the factory had taken its place” (p.36). City streets were crowded with peddlers trying to make a living by selling products. They needed to compete not only with others selling on the streets but also with the more establish businesses emerging in the cities that appear to the general public as more reliable than the stranger selling on the streets. From this need to get attention arose the first marketing entrepreneurs that added to their products an element of surprise, a personal claim of added value, or a label of quality.

Selling products became a spiral machinery always updating, always seducing and attracting attention. According to Barthel (1988) in the 1920s, “advertising men became the archetypal modern men: always on the forefront of change, always coming up with something new to sell whatever else was new” (p.17). The central focus separated from the product itself, and centered on the idea of selling, designing a campaign to seduce and call attention.

The quest for people’s attention that emerged in post-industrial society persists in contemporary society. Garbett (1981) calls the contemporary marketplace a scenario where a battle takes place between the advertiser who needs to yell as loud to capture attention and the consumer who wants to ignore and resist the ad. People’s attention becomes, as Garbett (1981) describes, “a precious human commodity” (p. 169). Schudson adds, “Advertising serves not so much to advertise products as to promote consumption as a way of life” (p. 6; see also Lasch 1978). The standard lifestyle becomes a consumer who is constantly in search of more products to consume, changing as fashion changes, afraid of being excluded from social groups for not exhibiting the

appropriate articles that represent his or her social class, constantly dissatisfied, building his or her identity based on products; and where cultivating human values and the spirit have been replaced by the accumulation of goods.

Promoting Consumption: A Political Endeavor

Immigrants coming to the United States needed to be in tune with the rapid economic expansion brought up by Industrialization. Molding workers into the capitalist system meant more than adjusting their activities to comply with the demanding hours and intense labor in factories, it meant also to shape other instances of social interaction, such as the family, the community, and recreation (Ewen 1976). Incorporating the idea of consumption mediating these social arenas was crucial for economic capitalist expansion. According to Ewen (1976) it was at this point, and for the purpose of bringing social order that advertising emerged. He explains:

...Advertising was to develop as a tool of social order whose self-espoused purpose was the ‘nullification’ of the ‘customs of ages; [to]...break down the barriers of individual habits.’ It defined itself as ‘at once the destroyer and creator in the process of the ever-evolving new. Its constructive effort [was]...to superimpose new conceptions of individual attainment and community desire’; to solidify the productive process while at the same time parrying anticorporate feeling. (P. 19)

The changes in working conditions –reducing hours while increasing salaries—could be seen not only as the outcome of unionization requests but also as a chance to improve market conditions. With more money and time, workers could become consumers, engaging in a circular process that feeds on accelerated production for consumption. As Ewen (1976) explains “It became imperative to invest the laborer with a financial power and a psychic desire to consume” (p. 25). More production meant an

increase in the levels of consumption no longer geared to satisfy primary needs, but to sustain the new forms of desired social status. With higher incomes, people could consume more, and the media generating the information regarding articles for consumption was advertising. “In this sales effort, corporations reorganized themselves to become marketing as well as producing units, allocating greater amounts of money to advertising, product differentiation, market research, packaging and credit schemes” (Goldman 1992:16; see also Braverman 1974).

The Impact of Television Advertising

In 1939, television emerged as a tool of communication to inform and entertain the public. The first commercial advertisements spoke about the quality of products and proved to be effective channels for reaching the public as well as for generating profit for companies. In the 1950s advertisers explored more options and became more talented “handling statistics and market research” (Barthel 1988:27). Over the years, the character of television commercials became more strategic as advertising agencies designed packages to target specific audiences, not just by providing information, but also by appealing to and stimulating people’s desires, fears, and self-perceptions.

Thus, television would dominate the world of communication and have the strongest effect on culture. Television not only entertained, informed, and helped to unify people across the world, but also commodified viewers and sold them to advertisers. Viewers became a profitable source of income for television stations. Commercials invaded people’s consciousness informing of lifestyles where products and services were a source of happiness. Advertising does not sell a product or service and is not concerned for the qualities in such; advertising sells and reproduces consumers’ insecurities.

According to Postman (1985) “what the advertiser needs to know is not what is right about the product but what is wrong about the buyer” (p.128).

Advertisers compete in a market saturated with products and services. Frequently, the success of a specific product depends on marketing, and consumers end up paying the cost of these aggressive campaigns. According to Leiss, Kline and Jhally (1986), “Per capita expenditure on advertising has remained at about 2.5 percent of share of consumer expending; in 1980 this was \$241 per person in the United States. This is added to the price of goods” (p. 14). The U.S. advertising market reached a value of \$38.6 billion in 2007 and is projected to reach \$44.2 billion by 2012 (Datamonitor 2008:3). The overemphasis on consumption to satisfy needs, however, “leads ultimately to general feelings of dissatisfaction rather than to happiness and content” (Leiss, Kline, and Jhally 1986:16).

Advertising’s persuasive power is understood as “a process” that guides consumer’s behavior following the “logic of bureaucratic power that characterizes modern society” (Lipovetsky 1994:162). The logic behind the process starts with the creation of products and continues with the subsequent manipulation of needs for those products, and not otherwise. According to Lipovetsky (1994), “Advertising produces needs that are precisely adapted to the supply; it allows producers to program the marketplace, to subvert the freedom of consumers” (p.162).

In the following section, I examine the historical, economic, and social conditions that prompted the emergence of attorney advertisements in the United States.

Historical, Social, and Economic Changes and the Commercialization of Law

The political, economic, and social changes of the twentieth century helped to solidify America as an economic and political leader. As Rubin (1996) points out, “by the beginning of the twentieth century, America was on its way to becoming one of the richest, most successful countries in the world. During the two and a half decades following World War II, America was in many ways, at its zenith. No country appeared richer, more powerful, more sure of itself” (p.8). Economic growth reflected not only in the work force – as businesses and the industry grew – but also in a proliferation of white collar jobs, and “well-paying blue collar jobs” (Rubin 1996:9).

During colonial times, the number of lawyers was very limited. According to Friedman (1985), “In 1740, there were only 15 lawyers in the colony of Massachusetts Bay, serving a population of about 150,000” (p.8). Hylton (1998) mentions that according to the U.S. Census “the number of lawyers jumped from 40,736 in 1870, to 89,630 in 1890, and overall increase of 120%. At the same time, the United States population grew by ‘only’ 63%” (p.11). The numbers increased in subsequent years, as Friedman (1985) explains, “Sometime before 1900, the profession passed the 100,000 mark. In 1950, there were about 200,000 lawyers, roughly 1 for every 750 Americans. Between 1960 and 1970, the numbers increased by about a third; and between 1970 and 1975, new admissions to the bar went up by an amazing 91 percent” (p.8).

As the U.S. economy boomed in the 1950s and 1960s, growth was reflected in different areas. One area was the vast number of new graduates from colleges. The legal profession was no exception; young attorneys entered the market competing to find a position in society. According to Evan (1990):

The first and most striking feature of the legal profession in the United States is a marked growth of the profession since World War II. In 1951 there were approximately 220,000 lawyers...whereas in 1985, according to American Bar Association estimates, there were about 655,191 lawyers. In other words, the population of lawyers in the post-World War II period has virtually tripled. (P.79; see also Laumann and Heinz 1977).

By 1993 the number of law school graduates continued reaching higher numbers “when American law schools awarded 42,000 law degrees” (Gillers 1996:151). The lawyer-to-population ratio has grown dramatically. Gillers (1996) estimated that, “In 1970, the lawyer-to-population ratio was 1/572. It was 1/310 in 1990. By the end of the century, the ratio is expected to drop below 1/275” (p. 151). The number of women in law schools has increased as well. In the 1960s “only 3.7 percent” of law students were females, compared to “43.7 percent” in 1994 (Gillers 1996:151).

The History of Attorney Advertisements

The first known controversy regarding lawyer advertisement goes back to 1875. According to Hylton (1998) a Chicago lawyer, Alphonso Goodrich advertised “divorces legally obtained, without publicity...at a small expense” and without “scandals” (p.3). Members of the Chicago Bar were upset with this type of promotion and presented a formal complaint. The Illinois Supreme Court “voted unanimously to strip him of his license to practice in the state’s courts” saying Goodrich “had resorted to ‘undignified means’ and ‘low, disgusting artifices’ in search for clients” (Hylton 1998:4). His actions were considered a disgrace that shocked the profession and described him as “an unworthy member” of the Bar (Hylton 1998:4). Goodrich lost his license to practice law because of his advertisements.

Records indicate that even Abraham Lincoln “routinely advertised his series in a variety of central Illinois newspapers” (Hylton 1998:6) and the earliest attorney ad, according to Hylton (1998) appeared in newspapers in 1802. Throughout the nineteenth century, lawyer advertisement was written in newspapers or directories in the same fashion as a professional card, with no more than some enhancement in fonts to call for attention. Increasing competition ended in aggressive solicitation and advertisement. The infamous denomination of “ambulance chaser” (Hylton 1998:12) in reference to attorneys who aggressively pursued accident victims appeared at the time, and brought concern among attorneys who viewed the ethics of their profession at risk.

In the early 1920s the opposition to advertising and solicitation became the dominant force. The restrictions written in canons ruling to prohibit lawyer advertisement were accepted. “By the 1930s, the Committee on Professional Ethics and Grievances seemed intent on eliminating almost all opportunities for lawyers to publicize themselves” (Hylton 1998:28). New corrections were established in years to follow to eliminate all newspaper advertising. By 1940 all the revisions were resolved; Canon 27 contained all regulations with “strict limitations on the publicity rights of lawyers” (Hylton 1998:33). No further discussion or notorious cases were brought to courts based on advertisement or solicitation, until the 1970s.

In the 70s diverse protests raised by academics and consumer groups to the ban on attorney advertisement began to take place. Attorneys and consumer groups challenged the existing prohibitions of the ABA, which in turn started loosening its tight restrictions on advertising and solicitation. In 1975, “the ABA Standing Committee on Ethics and Professional Responsibility formally proposed that the Code of Professional

Responsibility be revised to permit lawyers to advertise their services so long as their advertisements were not false or misleading” (Hylton 1998:39). Delegates of the ABA and some members of the Bar disagreed. The perception that advertising diminished lawyer’s reputation was still an issue. The first drafts to permit attorney ads included general recommendations such as, mentioning office hours, fees, and payment arrangements when advertising in the yellow pages.

During the 1970s into the 1980s, the American economy slowed down as other nations began competing with goods and services. It is during this time that the Supreme Court faced a most decisive moment in the history of legal attorney advertising. It all started in February 26, 1976 (Hylton 1998) with an advertisement published in a daily newspaper *Arizona Republic*: Attorneys John R. Bates and Van O’Steen advertised their services at reasonable prices (see appendix – Figure 2). Since such ads were prohibited in the state of Arizona, they were brought to the Arizona Supreme Court. The attorneys appealed the decisions of the lower courts until reaching the Supreme Court in 1977. After much litigation the U.S Supreme Court reached a decision “alter[ing] the world of lawyer advertising with its opinion in *Bates v. State Bar of Arizona* [433 U.S. 350 (1977)]” (Hylton 1998:41; see also Cotton 2001:115). The different aspect in this case was the nature of the business of this law firm. According to Hylton (1998), Bates and O’Steen offered services for people with relatively low incomes for “routine matters, such as uncontested divorces, uncontested adoptions, simple personal bankruptcies, and changes of name, for which costs could be kept down by extensive use of paralegals, automatic typewriting equipment, and standardized forms and office procedures. More complicated cases, such as contested divorces, would not be accepted” (p.43). Because of

these conditions, the success of their law firm depended on the volume of clientele. The attorneys claimed that “their practice and clinical concept could not survive unless the availability of legal services at low cost was advertised and, in particular, fees were advertised” (Hylton 1998:43).

The case took an interesting turn, when instead of focusing on how to regulate attorneys, the Justices observed the case taking into account the repercussions for the public. Mr. Justice Holohan observed that “...the information of what lawyers charge is important for private economic decisions by those in need of legal services. Such information is also helpful, perhaps indispensable, to the formation of an intelligent opinion by the public on how well the legal system is working and whether it should be regulated or even altered” (Hylton 1998:44-45). This twist in focus, with its ramifications anchored in the First Amendment determined the new concept for attorney advertisement: regulating attorney advertisements not for the consequences on their presentation of self, but for the important role they provide to society. Although it was later established that consideration for the professional manner in which attorneys must present themselves is of importance to the legal profession, the dignified image of an attorney was secondary in contrast to the beneficial flow of communication and right of the public to receive information.

Two polarized opinions exist regarding advertisements that apply to the evaluation of law firm ads. The first is that advertisements reflect a consumerist society, which seeks to create artificial wants and needs. Quoting from Littlefield and Kirkpatrick, Michalos (1995) argues, “Advertising is mass communication of information intended to persuade buyers so as to maximize dollar profits” (p.127; see also Littlefield and

Kirkpatrick 1970). This definition implies that the public's well-being is barely considered in advertising campaigns. Instead, the ultimate goal is to maximize profit for those who advertise. The second position justifies legal ads on the basis of the right to free speech and the right of citizens of democratic societies to receive information about the legal system. According to Freedman (1977), "The estimate of a Special Committee of the American Bar Association [found] that effective access to legal services is being denied to at least 70 percent of our population, which amounts to as many as 140,000,000 people" (p. 68). Frequently, the general public is unaware of the availability and costs of legal services. In this context, advertisements are seen as a means to inform the public.

The Supreme Court ruled in favor of legal advertisement because it found a ban on this practice "would create a barrier to the use of legal services, particularly for lower and middle income consumers.... In addition, it was argued, a lack of price information prevented many consumers from seeking legal services because they feared high prices" (Johnson, Yazdi, and Gelb 1993:35). Moreover, when examining how many personal injury cases that have deadly consequences received compensation –if any— Barstow (2003) found that since 1982, "2,197 [fatalities] were caused by 'willful' safety violations" (p.A28) that occurred in the workplace. According to Barstow (2003), "such deaths hardly ever result in prosecution, conviction or jail time. The primary reason: With few exceptions, state and federal OSHA inspectors rarely refer cases to law enforcement authorities" (p. A28).

The controversies regarding attorney advertisements continued throughout the years, with opinions in favor and in opposition to attorney advertisements (see Cebula 1998; Cooper 2002; McChesney 1985; Mumford 1976; Muris and McChesney 1979;

Myers, Padderud and Ferri 1991; Shimp and Dyer 1978; Spurr 1990; Yale Law Journal 1972). Although advertising was allowed, it left little information and regulation regarding the conditions to allow attorney advertising, such task was left in the hands of each state.

Law Firm Advertisement in Nevada

Nevada statutes spelled out various ethical concerns that advertisers were supposed to follow and that were routinely circumvented in legal commercial advertisements². In Nevada, former rules for attorney advertising stated that lawyers could advertise, but they were not allowed to solicit. Contacting people who may not need legal services was prohibited under Rule 197 (Harding and Shreve 2004:54). Written ads would contain a disclaimer required by the Supreme Court indicating that “the State Bar of Nevada does not certify any lawyers as specialists or experts” (Harding and Shreve 2004:50). The following is a description of the criteria formerly used to define false or misleading communications about lawyers in commercial advertisements:

1. Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
2. Is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law;
3. Compares the lawyer’s services with other lawyers’ services, unless the comparison can be factually substantiated; or

² I presented this information at two conferences under the titles: “Attorney Advertisement: From Public Service to Business” at the Graduate and Professional Student Research Forum, University of Nevada, Las Vegas, April 2, 2005; and another version of this research “Attorney Advertisement in Las Vegas: From Public Service to Business” at the annual meeting of the Pacific Sociological Association, Hollywood/Universal City, CA, April 20-23, 2006.

4. Contains testimonial or endorsement. (Nevada prohibits testimonials and endorsements.) (Cotton, Kennedy, Shaffer and Snow 2001:124-5).

These rules no longer apply. On December 16, 2004, the Study Committee on Lawyer Advertisements (SCLA) was created at the request of the State Bar of Nevada to examine attorney advertisements on different media (State Bar of Nevada 2010a). The initial request was to evaluate “the efficacy of the current advertising rules in the current real world environment” (p.6). Judges, attorneys, government enforcement agencies, law school faculty and lay members were called to form part of this committee having four meetings on March 24, 2005; August 31 2005; January 10, 2006; and March 1, 2006 (State Bar of Nevada 2010a).

With the changes on Rule 7.2. regarding attorney advertisement, the following statements are *no* longer under considerations:

There shall be no dramatizations, testimonials or endorsements...A lawyer’s advertisement, regardless of medium, must provide only useful, factual information presented in a nonsensational manner. This Rule is intended to preclude the use of scenes creating suspense, scenes containing exaggerations or situations calling for legal services, and scenes creating consumer problems through characterization and dialogue ending with the lawyer solving the problem. (State Bar of Nevada 2010a).

This omission guarantees the freedom of attorneys to reach audiences by appealing to their emotions, by creating expectations regarding results, and allowing “exaggerations or situations” that protect the rights of attorneys to advertise but not the rights of the public to receive legal information without being bombarded by dramatic portrayals that sustain a frightening state where the viewer is at loss without attorney representation. According to the minutes of the meeting held on March 1, 2006, Mr.

William c. Turner Esq. Chairman of the Study Committee on Lawyer Advertisement, the committee looked at other states as sources of information and considered “freedom of speech” and “freedom of commercial speech.” As such the chairman expressed the following:

...The consensus of this commission is that the purpose of lawyer advertising obviously is, one, that lawyers should be allowed to advertise because it is a business and it does in fact by their advertising protect the public, but his commission must also exercise its right to make sure that the public is protected and that the representations are fair and truthful and do not create unreasonable expectations. (State Bar of Nevada 2010b:4).

The principles of marketing for law firms are no different than product advertisement. The following are recommendations for attorney advertisements where the ultimate goal of informing the public is not an issue; rather, these examples are very similar to strategies for commercial product advertisements:

- Chinn (2005) advised to understand marketing as a way of life, targeting the appropriate and most profitable audience, crafting first impressions and polishing interpersonal communication—e.g. sustaining eye contact, providing possible clients with enough cards and brochures, being active in community service; and keeping a consistent image that increases awareness with the law firm as a product. He also explained that effective marketing campaigns can be very effective for established lawyers and discouraged advertising for brief periods of time. Chinn (2005) advised, “Be prepared for a long-run commitment. I wouldn’t even begin to embark on this type of advertising unless you are prepared to advertise for an entire year, regardless of the success. Short-term television advertising is like pouring money down a drain” (p.17).

- Cooper (2005) lists the elements of brand identity in a similar fashion as product marketing campaigns: (1) Brand name: What is your firm called? (2) Logo: What graphic identifies your firm? (3) Fonts: What fonts will convey your message? (4) Tagline: What additional line of text will convey the brand message? (5) Color Palette: What colors are right for your firm and audience? (6) Design Elements: What design elements will be used to reinforce the brand and assure identification of the product with your firm? (p. 200).
- Dolin (2005) presents the scenario after the law firm advertises. The phone cannot stop ringing, the attorney hired staff to handle phone calls, filing in court, deliver messages, and handle office work. Paralegals and personnel trained to screen initial consultations are part of the expanding legal firm. Dolin (2005) advises to handle potential clients with care, and to efficiently screen clients to prevent having to handle cases that the attorney might not be interested in representing.

The Margin of Profit and Marketing Law Firms

Ideologies, politics, and the economy within the structure of law replicate the dominant/subordinate hierarchy. The legal rhetoric excludes people who cannot interpret the law, while creating a hierarchy of those who can. In addition, money determines the quantity and quality of legal services that a person can receive. Money creates a system of exchange relations with applied extrinsic value. Exchange creates a bond between people, although the particular interaction created by money, the one that assigns value, is not determined by the interaction itself but by a standard that is completely alien to those individuals involved in such interaction. This idea can be applied to the interaction between attorney-client; the value of such interaction is determined in society. For

Simmel, money exerted a powerful influence in people and their interactions. His philosophy of money centered in “what money and the money economy have made of the thoughts, feelings and intentions of individuals, of societal constellations of social, legal and economic institutions” (Frisby 2002:94). Considering the large number of accidents that occur regularly, the occasion of a person’s injury means a profit for the legal system. According to Van Kirk (2000) “There is one injury accident every 12 sec, which means there are 300 injuries per hour, 7200 injuries per day, or 50,400 per week for a total of 2.62 million in 1996” (p. 2).

Back in 1977, Paul N. Bloom anticipated two possible outcomes of advertising in the professions. At the time, medical doctors, pharmacists, and lawyer advertisements was prohibited. Bloom indicated that pro-advertising arguments considered that advertisements “promote more competition in certain professions...more efficiency, lower fees, and better services” (1977:103), resulting in a favorable response from the public; while opposing arguments anticipated that advertisements “produce higher fees and poorer service in most professions, plus a large amount of deceptive advertising by professionals...” (Bloom 1977:103), leading to less favorable public feelings. He predicted that attorney advertisement might lead to a reduction or increase in fees depending on the areas of law (Bloom 1977:110), but this has not been the case. Attorney fees have not been affected by attorney advertisements and the public has not benefitted from lower fees.

Attorneys can have a significant impact on their clients. Attanasio (1984) explains:

The power that a lawyer can give to his client, and conversely take away from a person, who is not represented, is enormous. This is particularly true when clients use lawyers for

long-range legal planning so that the lawyer can set the parameters within which the courts must operate. In the private ordering function, representation effects control over oneself and over others. In the allocation of individual and governmental rights function, it can differentially increase to a substantial extent the power of certain interest groups. Inequalities in the distribution of representation forge inequalities in the distribution of justice. On a still deeper level, consistent representation or non-representation, good representation or bad representation, helps to determine the overall direction in which the law develops and the degree to which it serves certain groups, to the detriment of others. (P. 494)

Considering the impact attorneys may have on guaranteeing equal application of the law for the benefit of their clients, Attanasio (1984) considers that attorney advertisements should be allowed depending on its *type*. He mentioned two areas where attorney advertisements may be misleading, “price...[and] the quality of legal services” (p.530-1). The problem with regulating fees and mentioning prices upfront in a commercial is that each client’s case could be different and yield different fees depending on the time it takes, whether it reaches court, and other considerations that vary from case to case. Mentioning the quality of legal services is also complicated. Areas of expertise, parking facilities, and contact information are permissible, but “won-loss records...number of settlements, amounts of settlements, and types of cases turned away...def[y] verifiability” (Attanasio 1984:534).

Consumerism, Debt, and the Seduction of Money

Consumerism affects all socio-economic strata and is deeply engrained in the American lifestyle. People consume more, not as a function of their income, but in terms

of their desired lifestyle with the intention of portraying an ideal image. According to Schor (2000):

About two thirds of American households do not save in a typical year. Credit card debt has skyrocketed, with unpaid balances now averaging about \$7,000 per household and the typical household paying \$1,000 each year in interest and penalties. These are not just low-income households. Bankruptcy rates continue to set new records, rising from 200,000 a year in 1980 to 1.4 million in 1998. (P. 10-11)

When Las Vegas attorneys advertise the possibility of making money, or avoiding paying the IRS, reducing debt, or making a larger profit from a personal injury accident, they speak to viewers who may not only be suffering from injuries, or struggling with them, they understand that the mediator of problems standing between attorney and client is money, since viewers might be evaluating alternatives to their financial problems.

The struggles of bankruptcy and personal injury may affect all families, but low-income household might be particularly vulnerable to attorney messages on television, since this social class is more exposed to television. Schor (2000) explains that aside from having to juggle between part-time jobs, "...most low-income households remain firmly integrated within consumerism. They are targets for credit card companies, who find them an easy mark. They watch more television, and are more exposed to its desire-creating influences" (p.12). The message from a credit card company promising money is similar to the promise of an attorney commercial that promises the same: *money, fast, and easy*. The language used by attorneys fits the descriptions used by Gottschalk (1999). Attorneys may use a "commanding" (p. 323) tone reminding the viewer to *call now, act fast, call today*. According to Gottschalk (1999) these commands "do not seek to explain, promise or justify...[these statements] indirectly imply that time is a valued resource and

that speed is an important quality of everyday life” (p.324). Lawyers may also use a “rewarding” (Gottschalk 1999:324) tone joining the idea of acting fast and receiving something in return. In attorney advertisements, attorneys may promise a lower fee, or their standard, *Call now for a free consultation!* This type of approach compensates viewers for their fast response, rewarding also with the services promised. As such, “speed becomes commodified and commands an augmenting exchange value” (Gottschalk 1999:324; see also Harvey 1989). Another alternative presentation that solicits a prompt response from viewers uses a more manipulative verbal association; that, if the viewer does not act fast, s/he will lose something. Lawyers may use a “threatening” (Gottschalk 1999:324) tone warning the viewer that if they do not contact a lawyer they will lose their homes, that bankruptcy laws are changing and they need to act fast, that the law provides only a limited time to act. This approach replicates fear, and plays on the viewer’s lack of knowledge about laws, timelines, and how the legal system works.

The circle of spending that seems to be a common trap for many American families perpetuates a routine where people work more to consume more (Schor 1998; see also Schor 2000). A possible explanation for this routine may be the way people of different socio-economic classes locate themselves in comparison to others with higher incomes and lifestyles. According to Schor (1998) “...unlike the millionaires next door, who are not driven to use their wealth to create an attractive image of themselves, many of us are continually comparing our own lifestyle and possessions to those of a select group of people we respect and want to be like, people whose sense of what’s important in life seems close to our own” (p. 3). The use of credit cards facilitates acquiring a

desired location by purchasing the products that represent, at least symbolically, a higher social status. This trend to purchase products to convey an impression of success has increased through the years. Schor (1998) explains:

In the old days, our neighbors set the standard for what we had to have... Today the neighbors are no longer the focus of comparison... Today a person is more likely to make comparison with, or choose as a 'reference group,' people whose incomes are three, four, or five times his or her own. The result is that millions of us have become participants in a national culture of upscale spending. (Pp.3-4)

When attorneys offer their services to bring relief to viewers who may be considering bankruptcy as an available option to mitigate their financial struggles, they are indeed providing a much-needed service that in some cases is the only alternative. However, the problem of accelerated consumption could not be resolved in court, but in modifying consumer's lifestyles. Some of the messages implied in attorney advertisements seem to replicate consumer aspirations. In some commercials, people facing bankruptcy are seen celebrating the possibility of declaring bankruptcy to escape payments, surrounded by symbols of money, transforming the labels that no longer identify them, such as *person in debt*, *owing money*, *irresponsible consumer*, or *unaware buyer* (e.g., as in cases of misinformed people losing their homes when taking a mortgage they could not afford), *but as victims*, *harassed by creditors*, *framed by the IRS*. The change in labels and descriptions used by lawyers take the responsibility of facing debt from the hands of the viewer –and potent client—and places it with the institution or others to whom the debt is owed. This reversal of roles through the use of labels conveys the idea that the attorney sympathizes, understands, and is on the side of the prospective client.

Power, Networks, and the Attorney Attitudes

The legal system is supposed to have a primary function of balancing justice among people. From the writings of Hobbes and Rousseau to the present, the idea of maintaining social order and promoting social responsibility among individuals through an idealized version of a social contract has been of central concern. As society constructs or reconstructs its social organization, new hierarchical structures emerge. The legal system constitutes a structure implementing, maintaining, and dictating a system of rules and regulations for the well-functioning of society. Attorneys from different fields of expertise represent a class whose task is, ostensibly, to defend the law as an instrument to uphold social order and organization.

Foucault's analysis of the relation between power and knowledge is centered around the idea that knowledge is not found in nature. Rather, knowledge is a social construct exercised through the use of language, affirmed through networks, and deeply tied to power(s). Networks emerge historically, transforming and adapting to new trends in society. To live in a society without power and networks is unavoidable according to Foucault. Scientists, judicial systems, and diverse professionals exercise power by pre-established an uncontested discourse that has been socially constructed throughout history. Questioning these constructions is a must, suggests Foucault, not only to interpret practices, but to uncover who benefits from supporting their structure. In an analogy with Hobbes' Leviathan, Foucault presented a triangular structure of interconnections between power-rights-truth claiming that this model keeps the "knowledgeable" in powerful positions, with other subjects outside on the periphery (Foucault 1994:35-6).

Knowledge and truths are social constructions that change through time.

Knowledge is the “outcome” of interactions, of human struggle, and a “compromise” (Foucault 2000b:8) that emerges when the need for common ground is met. People search for knowledge to find solutions to their inquiries, to build the grounds, the foundations, the basis, or the steps to spark explanations regarding human nature. In this social construction people compromise to take into consideration the “counternatural” and the “counterinstinctive” (Foucault 2000b:8) since the natural and instinctive sides of the human character are subdued to knowledge once it is established. According to Foucault (2000b) “Knowledge doesn’t really form part of human nature...is an invention and has no origin [in the natural or instinctive]” (p.8). People arrive at knowledge as a result of a quest for explanations about who or what we are. Knowledge is bestowed upon us and we engage in a contradictory position between human instinct and knowledge characterized by “a relation of struggle, domination, servitude, [and] settlement” (Foucault 2000b:9). The settlement that Foucault refers to goes often unquestioned, people follow the traditions, values, doctrines, ideologies, rules, and regulations in their society hardly aware of the compromise that they are inheriting; yet, this submission of will is necessary for the balance and continuity of society.

The depiction of power in Foucault’s analysis is supported by interdependent networks of knowledge, discourse, institutions, authoritative figures, and subjects. All in all, the repressive mechanisms of power are hidden within these iterative networks, working together in practices that reiterate the status and structures of power. In regards to the iterative nature of power, Foucault explained:

What makes power hold good, what makes it accepted, is simply the fact that it doesn’t only weigh on us as a force that says no, but that it traverses and produces things, it

induces pleasure, forms knowledge, produces discourse. It needs be considered as a productive network...more than as a negative instance whose function is repression. (Hook 2007:67; see also Foucault 1980:119)

The legal system is one example of practices that remain in the hands of those who –through the use of their knowledge—exert and remain in a powerful position in relation to others who do not possess that knowledge. Every person is capable of arriving and producing rational decisions, but the opportunities to act, speak, and practice the law requires the use of specific legal knowledge. Shalin (1992) explains, “While the telos of reason is humanity as a whole, its locus operandi is the individual who speaks on behalf of reason” (p.240). This statement applies to the legal system where laws deriving from reason belong to all people, everyone may have access to the law, and may exercise their individual rights. The problem is *how*. The medium through which one can have access to the law is the knowledge of the legal language and those who possess that knowledge hold a position of power. The attempt to keep and sustain the monopoly over knowledge follows an economic decision. Quoting from Larson, Vago (2000) explains:

The attempt by professions to maintain scarcity implies a tendency toward monopoly: monopoly of expertise in the market and monopoly of status in a system of stratification. [Larson] contends: ‘Viewed in the larger perspective of the occupational and class structures, it would appear that the model of professional passes from a predominantly economic function—organizing the linkage between education and the marketplace—to a predominantly ideological one—justifying inequality of status and closure of access in the occupational order’. (P. 355; see also Larson 1977:xviii)

Professionals retain power by monopolizing knowledge, an analysis addressed in the sociology of work and occupations. Hodson and Sullivan (1995) argue that, “The

knowledge base, which is monopolized by the professional, is one key to maintaining professional power. Their associations, their lobbying efforts, and their use of state laws to enforce their privileges serve to maintain their power while denying others a share in it” (p.294). In a similar manner, Flores points to “market control” as a reason for authority over knowledge. Quoting from Flores, Vago (2000) explains, “Until the body of legal knowledge, including procedure, became too much for the ordinary person to handle, there was no need for a legal profession. Before the thirteenth century, it was possible for a litigant to appoint someone to do his or her technical pleading” (p. 355-6; see also Flores 1988).

In the following sections, I explain common problems that people—and attorneys themselves—find in relation to legal practices. Aside from the structure of power derived from knowledge, studies point to the practice of law in a capitalist society.

Dissatisfaction Associated with Legal Practices

Daicoff (2004) identifies three problems associated with legal practices: a decline in professionalism; low public opinion of lawyers; and lawyer dissatisfaction and distress (p.4). Friedman (1985) also identifies problems in the American legal system. He explains, “There are too many lawyers, too much law, and too much litigation” (Friedman 1985:7). According to Friedman (1985), in 1983 the president of Harvard University, Derek Bok, described the American legal system as “expensive” and “inefficient” in comparison to other systems in the world. Bok stated, “Lawyers and lawsuits produce nothing; not nuts and bolts, not bread or sausages, not works of art, not ‘culture or the enhancement of the human spirit.’ The lawyers instead strew the scene with social wreckage: conflict, complexity, and confusion” (Friedman 1985:7-8). Other

countries –e.g. France, Italy, Holland, Great Britain, and Japan—have less attorneys per capita (Friedman 1985). In these countries attorneys seem to make use of the law in more efficient ways. Friedman (1985) brings Japan as an example:

The population is about half that of the United States, so that we would expect about half as many lawyers, something on the order of 300,000. In fact they have less than a tenth the expected amount. Yet Japan has a gigantic, successful economy, and does brilliantly on the world market. It seems obvious that lawyers are doing something for us or to us that the Japanese are doing without; or perhaps there is some other occupational group in Japan that does what lawyers do here. (P. 9)

Another example of a nation with less litigation than the United States is Spain. Friedman (1985) mentions a study by Toharia counting the number of cases brought to courts from 1900 to 1970. According to this study, during those decades Spain grew socially and economically, yet the proportion of litigation did not increase. Instead, “Caseloads (per thousand population) were stagnant or declining, and they showed least growth in the advanced sectors of Spanish society—in big cities like Madrid and Barcelona. Attempts to check Toharia’s findings for other places—Italy and Scandinavia, for example—tended to confirm the Spanish experience” (Friedman 1985:18; see also Toharia 1974).

In the United States, the high number of attorneys in the market propitiates competition, and forces them to resort to strategies to keep themselves in business. “Lawyers have gained a monopoly on many activities, not all of which really need to be done by lawyers. Thus the professional activities of lawyers do keep the demand for lawyers artificially high” (Friedman 1985:10). The cost of having too many lawyers results not only in monopolizing activities but ends up increasing prices. “Litigation

drives up prices, adds to the tax burden, and inflates the cost of insurance. Business is forced to spend vast amounts of money on lawyers and legal defense” (Friedman 1985:16).

Dissatisfaction with lawyers and the legal system has been expressed for many years. Negative attitudes have been expressed in different forms of popular culture, e.g. Shakespeare’s line “let’s kill all lawyers...” (Daicoff 2004:5). Vago (2000) adds more examples that include negative descriptions, he stated “Plato spoke of their ‘small and unrighteous’ souls, and Keats said, ‘I think we may class the lawyer in the natural history of monsters.’ Thomas More left lawyers out of his Utopia...” (p.364). Vago (2000) also pointed to the titles of books, and other publications associating lawyers with unethical or greedy descriptions. The known term *ambulance chasers*³ described attorneys offering services chasing after ambulances, in hospitals, or in funerals. According to Friedman (1985) this practice has an explanation in the lifestyle of the late nineteenth century:

...[T]here was a vast increase in personal injury in the late nineteenth century. This was especially true of street injuries—caused by electric railways, for example, and later by automobiles and trucks. The phenomenon is also connected with the rise of the insurance business. The ambulance-chasing lawyer was reacting to ambulance-chasing insurance companies. Claims agents were every bit as unscrupulous as lawyers. They tried to rush to the victim or his family first, hoping to get a signed release of claims, before the lawyers arrived....Specific practices of insurance companies and tortfeasors called ambulance chasing into being, and late nineteenth-century tort law was its immediate background. (P. 25-6)

³ According to Friedman (1985) “The *Dictionary of Americanisms* traces the term to 1897” (p.25).

The public perception regarding attorneys is that they are not as honorable as they were in the past. According to a poll conducted by the American Bar Association in 1993, many people no longer consider attorneys “leaders in the community” (Daicoff 2004:5); attorneys are not considered as caring or compassionate as they were before, and only 22% of the interviewees considered that the words “honest and ethical describe lawyers” (Daicoff 2004:6). Negative comments were associated with the large fees that attorneys charge. Notorious cases, such as the O. J. Simpson trial in the 1990s (Daicoff 2004) and the McDonalds lawsuit⁴ have generated distrust in the professional attitude of lawyers. According to Daicoff (2004) the following attitudes contribute to negative perceptions of lawyers:

...[F]requency of disciplinary actions against lawyers and ethics code violations by attorneys; frequency of malpractice suits against lawyers; uncivil, discourteous, and aggressive behavior by attorneys toward other attorneys and nonlawyers; ‘Rambo’ –style litigation tactics; a win-at-all-costs mentality; the commercialization of the legal profession; and blatant and offensive advertising by attorneys, which are all frequently cited as evidence of a decline in professionalism. (Pp.4-5)

⁴ This case is known as a frivolous lawsuit where a woman collected millions after she spilled coffee bought at McDonalds. The facts of the case are not well-known by the public. McDonalds have had more than 700 incidents throughout the years with coffee served at high temperatures (Stossel 2010; Ohio Academy 2010; Lectric Law Library 2010). Stella Liebeck, a 79-year old woman had to be hospitalized for eight days with third degree burns in over six percent of her body that included “destruction of skin, flesh and muscle” (Stossel 2010; see also Lectric Library). A jury of twelve found that “McDonald’s coffee was unreasonably dangerous and had caused enough human misery and suffering...[with] their excessively hot coffee...” (Ohio Academy 2010). Initially, Ms. Liebeck wanted McDonalds to pay her medical bills totaling \$20,000 (Lectric Law 2010). McDonalds refused. Several attempts were made to settle this case with the plaintiff requesting a fair compensation to cover medical bills. The company refused and rejected all attempts, it also “ignored a request from the Shriner’s Burn Institute in Cincinnati to turn down the temperature of its coffee” (Stossel 2010). This well-know case served the purpose of forcing McDonalds to lower down the temperature of its coffee (Stossel 2010). The media called wide attention to this case and misinformed the public about compensation. The jury awarded \$2.7 million in punitive damages (which is the information the media released) but the judge reduced the award to \$480,000 (Stossel 2010; Lectric Law Library 2010) plus \$160,000 in compensatory damages (Lectric Law Library 2010). Further negotiations were conducted “in secret...and never revealed to the public...” The actual settlement was never released. (Lectric Law Library 2010).

In addition, people who had some exposure to legal procedures either as clients or as members of the jury were more likely to be unsatisfied with the legal profession.

Lawyers' Attitudes and Personality

Studies conducted by the American Bar Foundation address the increase of lawyers' dissatisfaction with their jobs. Also, the legal profession is one of three occupations associated with higher stress levels. Psychological studies in different states are consistent in their findings of high levels of depression among attorneys that are more frequent than in any other profession. Anger, dissatisfaction with their relationships, and alcoholism were some of the stress-related symptoms observed in attorneys with depression. The consequence of lawyer distress is that lawyers can not practice their profession effectively (Daicoff 2004). Symptoms of depression appear not only in the practice of law, but seem to develop in law school (Daicoff 2004:8).

According to Daicoff (2004) trial lawyers have higher testosterone levels. These higher levels are associated with a more active and energetic personality that feels comfortable with interpersonal confrontation. Female attorneys have been found to have higher testosterone levels than female professionals in other fields. Studies suggest that female attorneys "may be generally more achievement-oriented and 'masculine' – meaning competitive and aggressive- than other women" (Daicoff 2004:31). According to Daicoff (2004) lawyers have a different way of seeing and experiencing situations. Lawyers are more introverted and analytical than other professionals, and "their lack of sensitivity to human, emotional, interpersonal concerns may also hamper relationships with clients" (p.100). Since attorneys perceive situations differently, the way in which clients and attorneys perceive the resolution of a case may differ and end up creating two

polar opinions regarding the outcome of a legal situation. Moreover, the difference in perception attributed to personalities may create a gap between the client and the attorney, where “clients may view the lawyers as cold, unemotional, and inhuman, whereas lawyers may view clients as illogical, emotional, and frustrating to deal with” (Daicoff 2004:101).

State Bar and Attorney Ethics

In their advertisements, attorneys in Las Vegas bring up the notion that *other* attorneys do not behave in ethical manners, either by being disrespectful to clients, or for their lack of experience. In the following paragraphs, I will summarize regulations from the Nevada State Bar, an FBI investigation on fraud and lawyer-physician schemes to inflate bills, and rules and regulations on attorney advertisements in Las Vegas discussed at meetings. In contrast to other professions where professionals are instructed, supervised, and constantly evaluated (e.g., professors at universities) attorneys’ misbehavior can go unquestioned and unsanctioned. There are limited opportunities for clients to go after an attorney who had not provided the services promised, yet there are all sorts of regulations and clauses in attorney contracts that client needs to adhere and abide to when hiring an attorney.

The American Bar Association (BAR) is a private organization that prescribes ethical rules for lawyers. The BAR suggests codes of ethic in documents that can be adopted by each state. According to Gillers (1996) “These documents are suggestions only. American states are free to adopt them, modify them, or reject them entirely” (p.154). Most states use the prescriptions from the BAR and adopt their rules to the needs in their states. When attorneys conduct their business or behave inadequately the State

BAR can sanction them. According to Gillers (1996) ethical behavior encompasses different matters, “They describe a lawyer’s confidentiality obligations; his or her obligation to avoid conflicts of interest; the lawyer’s duty to keep a client informed of the status of a matter; and the lawyer’s duty of loyalty” (p.156).

Attorney fees are not regulated by the BAR. Gillers (1996) explains:

Some private lawyers work for as little as \$50 or \$60 an hour. At the other extreme, some lawyers charge as much as \$500 or \$600 hourly. Beyond the market, ethical rules require lawyers to charge fees that are ‘reasonable’. Rarely does a court find a fee unreasonable, but it does happen from time to time. Factors courts consider in determining reasonableness include the lawyer’s experience; the novelty of the legal problem; customary fees in the locality; the results the lawyer obtained; the time and labor required to perform the legal service; and whether the fee is contingent. (P.168)

In Nevada, considerations and rules for personal injury indicate that the attorney’s first duty is the obligation they have with their clients. Medical providers, hospitals and other services work with attorneys. Usually a client who has not consulted with doctors will receive suggestions from attorneys listing medical doctors and facilities that work on a lien. Fasset and Shreve (2003) explain that the obligation to pay medical bills is the responsibility of both attorney and client:

When the attorney signs the lien, both the attorney and client are obligated to adhere to that lien. Therefore, upon resolution of the case, if the attorney does not pay the physician for the lien medical expenses, but rather gives the proceeds to the client, the attorney will be personally responsible for that medical expense. The attorney’s only remedy will be to go back to the client for reimbursement, and unlikely result. (P.9)

In their commercials, many attorneys address this issue. They mention that they could provide clients with all the medical coverage they need until their case is settled. However, in a report from investigative reporter George Knapp for *Eyewitness News* – KLAS TV, an FBI investigation of inflated bills and unnecessary medical treatments suggests that “local attorneys and doctors [are working together] to manipulate personal injury awards” (Knapp 2006:1). Are attorneys benefitting from unnecessary medical procedures and are they working in combination with medical facilities conducting unnecessary treatments to inflate bills and charge more money to insurance companies? In his report, Knapp (2006) asserted:

After a quiet three-year investigation, federal lawmen suspect a dozen or more prominent lawyers of conspiring with close to 20 physicians in rigging the system. Allegedly, the doctors help to increase the size of potential settlements by padding the bills with tests, treatments, even surgeries –needed or not, after which they served as expert witnesses for the lawyers, and thus earn a kickback from any settlement. Splitting fees is not illegal in Nevada, although it's considered highly unethical. But something in this scenario caught the attention of federal authorities. The I-Team has learned that at least 10 prominent attorneys received subpoenas for their financial records. At least six respected doctors were served as well. Knowledgeable sources tell us that eight more lawyers and a dozen or more doctors may still receive subpoenas in the near future. (P.2)

At the time, it was reported that the FBI continued with the investigation and that the television station received calls and emails from the public with more information. However, *all* the results of this investigation have not been released as formal or public statements. The FBI's website mentions two cases listing local Las Vegas attorney Noel Gage and medical consultant Howard Awad as “charged of conspiracy and fraud in 2007.

The men are accused of being part of a network of Las Vegas physicians and lawyers who cheated clients out of honest services by, among other things, protecting doctors from malpractice lawsuits and sharing kickbacks from legal settlements” (FBI Press Release 2009). Another case involving attorney Gage describes how physicians requested that attorney Gage not to sue a doctor for malpractice that left his client paralyzed.

In the minutes of the Study Committee on Lawyer Advertisement (SCLA) meeting on March 1, 2006, Las Vegas’ attorney Adam Stokes presented his concern about other attorneys providing misleading information in their commercials. He stated:

I just wanted to take a moment to raise two issues that we see in our practice...the first has to do with...advertising for personal injury cases. We see a huge problem and what I believe are very misleading for the public by attorneys who advertise contingency fees on TV or billboards like, for example, 15 percent or 22 percent, only later for the clients to find out...after they’ve already gone and signed up with the attorney whom they’re trusting to look out for their interest, that that percentage contingency fee would only apply for like 7 days, after which time –or after 14 days—after which time the contingency fee is raised; and you might see it in the fee agreement of course, but it might go up to 30 or 40 or 50 percent. I personally believe this is misleading...(State Bar of Nevada 2010b:8).

Attorney Stokes added in his remarks that this reduction leads to cases being handled by secretaries or case managers to cope with the costs of reducing contingency fees which is not for the clients’ advantage and certainly not helpful for attorneys who want to compete and advertise fairly. This statement prompted a discussion that included informing the public that it would be “nearly impossible” to settle a case within 7 days given the time it takes to communicate with insurance adjustors, and that full disclosure

in advertisements is necessary. Attorney Stokes put an emphasis on disclosing to the public that settling a case is time consuming. Honorable James William Hardesty contributed to the discussion by adding that, “Lawyer advertising isn’t just the First Amendment right of a lawyer to advertise. Part of it is to educate the public on fees⁵, on lawyers” (State Bar of Nevada 2010b:15). The question that remains unanswered is *how*. The television medium is not conducive to educate the public in an advertisement because of the time constraint. A few seconds of television exposure can only be favorable for attorneys to generate familiarity with a brief message that cannot educate the public regarding their legal rights. Legal cases and their resolutions are highly complex.

Attorney advertisements on television are no different than other product advertisements. By advertising on television, attorneys sell their image in the same manner that detergents compete selling theirs. *There is no difference, there can never be*, unless law firms buy more time to educate the public in formats differently from brief commercial advertisements. The public can be better informed about the nature and sensibility of attorneys through websites that include attorney responses, such as the mentioned above regarding the State Bar of Nevada minutes.

Conclusion

The social and economic conditions of the 70s and 80s created the appropriate climate to facilitate lawyer commercials. Laws restricting attorney advertisement became more flexible at a time when large numbers of newly graduates from law schools needed

⁵ Fees to represent a client seem to have been standardized at 33 1/3% if settled without going to court, 40% if filing a suit in court, and 50% if appealed in court by either defendant or plaintiff (Siegel 1969).

to compete to reach clients' attention, while marketing strategies became more pronounced and effective at selling all sorts of products and services.

Television advertisements inform the public of available products and services, while generating ideas regarding behaviors and interactions. The continuous exposure to attorney commercials inform viewers of expected situations when facing legal issues, as such, viewers learn from the messages in law firm advertisements. The rules and regulations restricting law firm advertisements in Las Vegas are more lenient now in comparison to those prior to the creation of the Study Committee on Lawyer Advertisement (2004). The decisions that allowed more flexibility in lawyer presentations took into consideration the need of lawyers to promote their business, rather than measuring the gestalt effect of these messages on viewers. Dramatic and violent representations, ethnic stereotypes, gender disparities, and promoting unethical behaviors are examples of messages in attorney advertisements. Sociological and media studies have pointed out to the impact these negative representations have on viewers since these representations inform the public. The presence of power in attorney representations, where lawyers replicate their hierarchical position in society, may be an accurate representation that exemplifies a socially constructed reality of the interactions between attorneys and clients.

CHAPTER 3

METHODOLOGY

I follow a multi-method approach with a primary focus on content analysis of attorney advertisement on television in Las Vegas. Television viewers can be informed of their legal opportunities through a wide range of options, and TV advertising is one means that introduces and creates familiarity between the public and the attorneys who advertise. My content analysis uses both quantitative and qualitative approaches. I quantified the number of commercials that are broadcast at different times of the day during regular programming in order to establish the pervasiveness of attorney commercials and, I analyzed the visual, aural, and textual messages in attorney commercials to discover common themes, which I explain sociologically. In the following sections, I explain both methods.

Quantitative Procedures

Content analysis is particularly useful when “predict[ing] or infer[ring] phenomena that ...cannot be observed directly” (Krippendorf 2004:10). This method allows a more elaborated “objective and systematic” (Fowles 1976:60; see also Berelson 1952) analysis of verbal, pictorial, and symbolic data. My intention is to arrive at an informed opinion regarding frequency and compare the number of attorney ads with other types of advertisement. Neuendorf (2002) defines content analysis as, “the systematic, objective, quantitative analysis of message characteristics. It includes the careful examination of human interactions; the analysis of character portrayals in TV commercials, films, and novels...” (p.1). In reference to its scientific value, she adds:

Content analysis is a summarizing, quantitative analysis of messages that relies on the scientific method (including attention to objectivity-intersubjectivity, a priori design,

reliability, validity, generalizability, replicability, and hypothesis testing) and is not limited as to the types of variables that may be measured or the context in which the messages are created or presented. (P.10)

I identify key categories –such as, day and hour when attorney commercials aired, type of commercial, and television station where depicted. Establishing a causal relationship between variables is not necessary in this study; my objective is to present a descriptive analysis with frequencies.

Programming Recording

From January 11, 2006 to February 18, 2006, I recorded the television programs of seven television stations: NBC, FOX, Telemundo (Hispanic), WB, Univision (Hispanic), KLAS/CBS, and ABC. I videotaped the programs of each local television station, recording twenty-four hours of programs on two weekdays, and on one weekend day for each TV station over a period of five consecutive weeks (see appendix – Table 1). I used a VCR recorder and three 8-hour tapes per day switching the tapes every eight hours at the same exact time. The loss of information was minimal. I did not change tapes during advertisements to avoid losing information, and tried to switch tapes consistently during a running program.

In total, I recorded 504 hours of television programming. Each television station was recorded on three non-consecutive days for 72 hours. A day of programming was recorded over three periods of eight hours distributed as follows: period one recorded from 12:00 a.m. to 8:00 a.m.; period two recorded from 8:00 a.m. to 4:00 p.m.; and period three recorded from the remaining time from 4:00 p.m. to midnight (see appendix – Table 1).

Recording of Attorney Commercials

The day after recording, I reviewed each tape, writing down the information about the TV station, times, types of programs, and commercials aired. I paid special attention to attorney commercials, writing down the exact time when each commercial appeared. I copied every different attorney commercial onto a DVD, assigning each commercial with a number along with a brief description to identify each ad every time it appeared on the same or another television station (see appendix - Table 2).

Once I finished recording, I separated the information into two distinct types of data. First, I wanted to quantify the number of attorney commercials in comparison to other types of commercials. Second, I wanted to count the number and kinds of attorney ads seen during this period of time. To compare the frequency of attorney commercials with other types of commercials, I selected only seven days of programming: Wednesday, January 11, recording NBC; Friday, January 13, recording FOX; Tuesday, January 17, recording Telemundo; Thursday, January 19, recording WB; Monday, January 23, recording Univision; Tuesday, January 31, recording KLAS/CBS; and Monday, February 6, recording ABC. I compiled a list with all the commercials broadcasted during a period of twenty four hours from each television station. To observe the content of attorney commercials during this period of time, I compiled another list identifying each attorney advertisement considering all the law firm ads recorded from January 11, 2006 to February 18, 2006.

Coding Variables

To determine the pervasiveness of attorney commercials and to compare the number of attorney commercials with other advertisements I used the following set of variables (see appendix – Table 2):

- (1) STATION, refers to the seven television stations I recorded.
- (2) DATE, refers to the twenty-one days when I recorded television programming.
- (3) HOUR, refers to the time when the television commercial was depicted on television.
- (4) TYPE, refers to the category of commercial aired on television. For the purpose of my evaluation, I used detailed description of commercials. For example, instead of using one category for food, I used separate codes for different types of foods, such as, (code 10) food frozen, to cook, ready to eat, (code 12) diet products, (code 23) sweets, candy, cookies, crackers, (code 33) cereal, breakfast, (code 36) beverages, juice, soda, (code 59) coffee, coffee creamer, (code 64) milk, (code 70) egg. Having specific categories facilitates rearranging those into broader categories. It also facilitates making a more accurate comparison of the most pervasive types of advertisements shown on television.
- (5) NEWKIND, refers to the different attorney commercials aired. I included longer or shorter versions on the same commercial as two different types. For example, attorney Chad Golightly portrayed eleven different types of commercials. The commercials coded #2 and #92 are similar, but number #92 is longer and includes more frightening images.
- (6) ALLADS is a dummy variable coded to identify if the commercial is an attorney ad.
- (7) REPTATTY refers to the name of attorney or law firm advertisements.
- (8) TIMING refers to the time in minutes or hours between one attorney commercial and the next within the same day.

Data was recoded to use a Statistical package for the Social Sciences (SPSS 16.0 for Windows).

Qualitative Procedures

In his study of media messages, Stuart Hall (1973) identified three different meanings: First, the encoded meaning that the producer sends, and second, the decoded meaning that is interpreted by the audience or receiving side. Both sides carry frameworks of knowledge, structures of production, and technical infrastructures (p.4). The communication process is “iterative,” meaning that both sides can influence and affect the other. An important part of the process is the degree of “symmetry” and ‘identity” (Hall 1973:4) between the two meanings. The codes are not always systematically identical or interpreted as the sender of the message intended. The lack of symmetry between the source and the receiver is called “distortion or misunderstanding” (p.4) and it “arise[s] precisely from the lack of equivalence between the two sides in the communicative exchange” (Hall 1973:4). Advertisements carry social values carefully crafted to represent realities. According to Fiske and Hartley (2003), advertisers exploit signs and symbols “in order to cram as much meaning as possible” (p.33) in a given constricted time. Messages are also “polysemic” explains Hall (1973:9) in reference to the ability of messages to carry a number of possible meanings, “there can never be only one, single, univocal and determined meaning...[the] possible meanings will be organized within a scale which runs from dominant to subordinate” (Hall 1973:9).

A third type of meaning arises from shared cultural frameworks existing in every society that constitute a *common language* that individuals from the same culture interpret, adopt, and reconstruct. Hall (1973) explains that this common *language known*

is what advertisers, and the media in general, use when constructing messages. This type of *known reality* is a combination of *signifier* (physical object, text, image) and *signified* (mental concept derived from the signifier) to form the *sign* which is a social construction revealing the wide range of meanings attributed to this association (Saussure 1959).

Similarly, Fiske and Hartley (2003) identified three levels of signification, where the first order of signification derives from the object itself, the second level is motivated by the meanings attributed to such object or sign, and the third is the cultural level that reaches the interpretations mediated in society that speak of higher values and beliefs shared by members of the same group (pp. 23-25). The second and third are cultural levels of signification, the difference is that the second level is the first level of interpretation, a common understanding of the uses and meanings of the object or sign. The third level refers to what these uses and values reveal about our society. To use Fiske and Hartley's own example, the first level of interpretation of a photograph of a car "means the individual car," the second level refers to the uses of the car that in our society "signify virility or freedom," a third analysis combines the two generating "a cultural picture of the world, a coherent and organized view of the reality with which we are faced. It is in this third order that a car can form part of the imagery of an industrial, materialist and rootless society" (Fiske and Hartley 2003:25). Barthes called the third level of signification "Myths" –myths are always ideological.

The meanings and significance we place on the advertised products are social constructions, and are not inherent to the objects themselves. As Kuhn explains, "Ideological meanings 'do not reside in images... [but] are circulated between representation, spectators and social formation'" (Goldman 1992:2). Understanding how

media messages shape identity and communicate with the viewer is complex. Messages cannot be understood without looking at the layers of meaning that appeal and make sense for the viewer individually and collectively. The individual meaning refers to how the person makes sense of the message. The collective meaning refers to how the viewer will interpret the message taking into consideration the manner in which society interprets the message. The viewer accesses the cultural meaning, the one that has been established in society and based on those expectations and common understandings recognizes what the message means for him or her. Hall referred to this process identifying four levels of audience *decoding*:

(1) *dominant or hegemonic code*: interpretation based on dominant shared meanings; (2) *professional code*: the broadcaster reaches for a message that has been already signified, s/he knows the implied meaning; (3) *negotiated code*: combines adaptive and opposing elements; (4) *oppositional code*: the viewer knows the intended meaning but decodes the message in a contrary or opposing manner. (Alasuutari 1999:4; see also Hall 1973).

The dominant or hegemonic meaning is socially-constructed and reveals higher influential structures in society that inform the viewer. The professional code refers to the technicalities and media language that program producers control. This language functions behind the viewer, but replicates the meanings in society in an “iterative” (Hall 1973) manner: informed by the public in society – abstracted and reproduced by the media – sent back to the public. The negotiated code refers to the levels of “symmetry” and “identity” between the encoded and decoded message (Hall 1973:4). The sender of the message adapts the meanings and creates a product, the receiver of the message access that information interpreting from his/her location, and not necessarily as intended by the encoder. It is at this stage that the fourth oppositional code might arise; when the

decoder, or viewer, understands, interprets, or decodes the product not as intended, but distorted. The lack of symmetry between the source and the receiver is called “distortion or misunderstandings...aris[ing] precisely from the lack of equivalence between the two sides in the communicative exchange” (Hall 1973:4).

Decoding Attorney Advertisements

In this dissertation, I use semiotic analysis to decode the possible meanings in attorney advertisements. According to Neuendorf (2002) the focus in semiotic analysis is to find “deeper meanings of messages” (p.6). She explains:

The technique aims at deep structures, latent meanings, and the signifying process through signs, codes, and binary oppositions. Interpretations are theoretically informed, and assertions are made on central themes in culture and society. Rhetorical or narrative analysis can be preliminary to this process. The assumption is that the researcher is a competent member of the culture. (P.6; see also Eco 1976)

In chapters five to nine, I interpret the visual, aural, and textual symbols in attorney advertisements to understand how these construct gender and ethnic stereotypes, and the presentations of self of attorneys, clients, and legal or law enforcement personnel. I also consider how attorney advertisements reflect problems existing in our society, such as, the use of legal language as a realm of discourse controlled by attorneys, immigration problems, the recreation of discourse that induces fear –used as a persuasive technique to attract clientele—and the association between contacting an attorney and making a higher profit.

The Sample

The weeks when I recorded television commercials from January 11, 2006 to February 18, 2006, were selected at random. However, I tried to avoid the possibility of

coinciding with specific holidays (e.g. Christmas, Independence Day) or events (presidential elections) to include the average daily programming that viewers might see on a regular basis. Events at the time that might have included additional advertisements or may have disrupted regular programming during my data collection phase were: the U.S. State of the Union Address – President George W. Bush on January 31, The Australian Open (tennis) January 16-29, the Super Bowl XL on February 5, and the Winter Olympics (Turin, Italy) February 10-26.

I had chosen to record two weekdays and one weekend day for each of the seven television stations. I aligned the seven television stations according to channel number (see appendix – Table 1) with no particular intention to record one on any particular day. I recorded one day and watched the video the next day assigning codes to each attorney commercial. I chose seven days when I had recorded on a weekday to watch the entire programming specifying each commercial with the purpose of comparing attorney commercials with other products and services. For the last seven days, I adjusted the schedule to complete recording of the weekdays and weekend needed for each television station.

I estimate that by recording all programming for twenty-four hours on three non-consecutive days and for each seven television stations, I had been close to include all attorney messages aired on broadcast television during this time. However, the entire population of attorney advertisements would refer to all legal firm commercials televised, which would include other advertisements on television stations that I did not include and/or depicted on the days when I did not record programming. In addition, I estimate that newer or older attorney advertisements with different formats, themes, and messages

could have aired simultaneously in another channel while I was recording a different television station.

Unit of Analysis and Identification of Early Themes

I transferred every different attorney advertisement to a DVD with the purpose of examining the themes and symbols. The units of analysis were: the images frame by frame, the advertisement, and the Gestalt effect of all attorney advertisements. In order to pay attention to the images frame by frame, I created a Storyboard⁶ for each of the commercials. I froze images when I noticed changes or additions in: the proximity of the camera, shots at different locations, new or additional characters, wardrobe, graphics, information in the lower third of the screen (L/3), a camera zooming in or pulling out depicting more or less information in the background, or a specific audio effect that added an emphasis to the scene.

In order to pay attention to the language, I created a script for each of the attorney commercials. I listened to each commercial and used a film format to rewrite the message. I included information about locations depicted, audio effects, brief descriptions of music, and translated all messages in Spanish to English. I made notes to myself about specific tones of voice, or audio effects that seemed to add meaning (e.g., tone of voice sounds desperate, after contacting the attorney tone of voice sounds relieved; attorney's tone is aggressive, or relaxed, or playful). These descriptions allowed a more thorough analysis and classification according to theme.

⁶ A storyboard is a tool used in film and television production to communicate the visual aspects of a production or program. In some examples, I included indications about camera angles, script, locations, and others as long as these have sociological implications. My purpose in using this type of format was to describe and analyze images and inform the reader of the visual sequence of shots in attorney commercials.

I watched all the commercials without audio in order to identify the symbols depicted and the visual elements most commonly used in attorney advertisements. I started thinking about what these meant. Why were these symbols chosen? How did these contribute to the overall message? Why were these included in the commercial? What was the intended and unintended purpose of these symbols? What was the attorney trying to convey through the use of these symbols? I wrote a list of common symbols and arranged these under topics. Also, I compared the pictorial qualities in depictions of females vs. males, body language, and ethnic differentiation.

I wrote a list of themes and rough ideas that came to mind when watching commercials without sound, images frame by frame, and by reading the scripts. I also wrote ideas for each of the commercials and a general list of what the overall commercials inspired (see appendix – Table 3).

From these observations, I derived two broad categories: macro and micro issues. Macro issues refer to portrayals that reflect on societal concerns, such as, the hegemonic power that attorneys hold by using the legal language, gender, migration and legal status, and ethical concerns depicted in attorney commercials. Micro issues refer to portrayals that bring to light how individuals construct their realities and how attorney advertisements recreate stereotypes. It is in this stage that I connected my observations with broader sociological theories that explain what I found in attorney advertisements. I present this evaluation in chapters five to nine.

CHAPTER 4

FINDINGS

This dissertation combines quantitative and qualitative analysis. In the quantitative component of the study, I focused on the frequency and sociological characteristics of attorney commercials portrayed during the sample time frame of this study. In the qualitative analysis section, I examined how images are constructed (chapter 5); gender representations (chapter 6); ethnic proximity, legal status and immigration (chapter 7); the culture of fear (chapter 8); and legal and ethical issues (chapter 9). In the following section, I summarize the quantitative results.

Frequency of Attorney Commercials

Attorney commercials air at any time of the day during most regular programming, with the exception of times when telemarketing commercials or special events are scheduled. Although I did not find a significant difference in volume of attorney commercials across the times of day (see Table 4), the lowest number of attorney commercials air between 9:00 p.m. to 10:00 p.m., when an average of 1.2% of all attorney commercials can be seen. In contrast, the highest rate of attorney advertisements occurs between 11:00 a.m. and noon, when an average of 8% of all attorney ads are shown. The choice of placing attorney ads at specific times is a strategy to capture specific audiences' attention. According to Gamson, Croteau, Hoynes and Sasson (1992):

Imagery production in the United States is overwhelmingly a for-profit enterprise, heavily dependent upon advertising. Media organizations use news and other programming as a commodity to attract an audience which they can then sell to advertisers. Beyond its size, these advertisers are concerned with the 'quality' of their

audience (defined in terms of purchasing power) and the company which their advertisements keep. (P. 377)

Television programs aired on weekdays from 11:00 a.m. to noon included: the quiz show *Jeopardy* followed by courtroom program *Judge Judy* (on NBC); the courtroom program *Eye for an Eye* followed by a documentary series about animals and pets *Wild about Animals* (on FOX); the soap opera in Spanish *Celebridad* followed by a courtroom program in Spanish *Sala de Parejas* (on Telemundo); the talk show *Jerry Springer* (on WB); the quiz/game show in Spanish *Vida TV* (on Univision); the soap opera *The Young and the Restless* (on CBS); and *News Program* followed by the game show *Who Wants to Be a Millionaire* (on ABC). Television programs aired on weekdays from 9:00 p.m. to 10:00 p.m. were: the game show/overweight competition *Biggest Loser* (on NBC); a reality show *Trading Spouses* (on FOX); the soap opera in Spanish *Corazón Partido*, followed by short stories/melodrama *Decisiones* (on Telemundo); the reality show *Beauty and the Geek* (on WB); the soap opera in Spanish *Alborada* (on Univision); a movie *The Prime Gig* (on CBS); and the reality/dating show *The Bachelor* (on ABC). Attorney advertisements were strategically shown more often during courtroom programs and soap operas, a reflection of the strategic efforts to sell particular audiences to advertisers. As Gamson, Croteau, Hoynes and Sasson (1992) explain:

The need to attract advertisers induces programmers and editors to produce content that is likely to create a 'buying mood.' Herman & Chomsky...point out that large corporate advertisers will have little interest in sponsoring media content that targets audiences with little buying power or that produces images critical of corporations. More generally, advertisers shy away from sponsoring material that is disturbing—since such material

interferes with the buying mood they wish to maintain. (P. 377-8; see also Herman and Chomsky 1988)

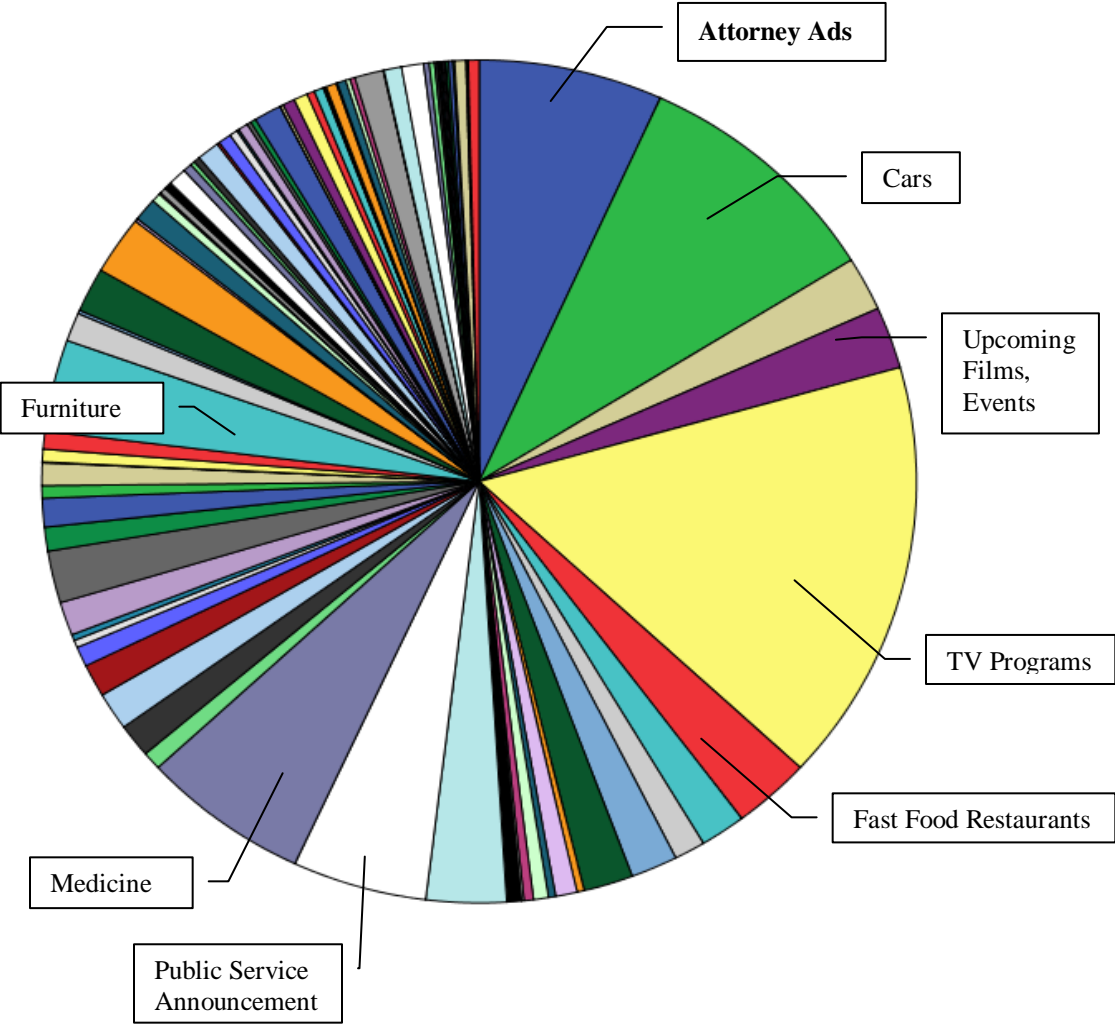


Figure 1. Most Frequent Advertisements

TABLE 4. Frequency of Attorney Advertisement in 24 Hours

Time	All Ads Frequency	All Ads Percent	Attorney Ads Frequency	Attorney Ads Percent
12 a.m. to 1 a.m.	269	4.5	19	2.0
1 a.m. to 2 a.m.	215	3.6	37	4.0
2 a.m. to 3 a.m.	167	2.8	33	3.6
3 a.m. to 4 a.m.	181	3.0	48	5.2
4 a.m. to 5 a.m.	193	3.2	42	4.5
5 a.m. to 6 a.m.	209	3.5	30	3.2
6 a.m. to 7 a.m.	222	3.7	27	2.9
7 a.m. to 8 a.m.	249	4.1	30	3.2
8 a.m. to 9 a.m.	247	4.1	35	3.8
9 a.m. to 10 a.m.	289	4.8	62	6.7
10 a.m. to 11 a.m.	275	4.6	50	5.4
11 a.m. to 12 p.m.	311	5.2	74	8.0
12 p.m. to 1 p.m.	298	4.9	71	7.7
1 p.m. to 2 p.m.	293	4.9	60	6.5
2 p.m. to 3 p.m.	336	5.6	67	7.2
3 p.m. to 4 p.m.	241	4.0	47	5.1
4 p.m. to 5 p.m.	262	4.3	48	5.2
5 p.m. to 6 p.m.	254	4.2	30	3.2
6 p.m. to 7 p.m.	246	4.1	34	3.7
7 p.m. to 8 p.m.	277	4.6	23	2.5
8 p.m. to 9 p.m.	260	4.3	16	1.7
9 p.m. to 10 p.m.	234	3.9	11	1.2
10 p.m. to 11 p.m.	253	4.2	15	1.6
11 p.m. to 12 a.m.	249	4.1	18	1.9
Total	6030*	100.0	927**	100.0

*(N=6,030) NOTE: Includes commercials recorded on W 1/11/06 - Ch. 3 – NBC; F 1/13/06 - Ch. 5 – FOX; T 1/17/06 - Ch. 9 – Telemundo; R 1/19/06 - Ch. 12 – WB; M 1/23/06 - Ch.15 – Univision; T 1/31/06 - Ch. 8 – CBS; and M 2/6/06 - Ch. 13 – ABC.

** (N=927) NOTE: Includes attorney ads recorded from January 11, 2006 to February 18, 2006.

In this study, I was particularly interested in identifying the proportion of attorney commercials in relation to all the commercials broadcast on any particular day. Attorney commercials are the third largest kind of advertisement in Las Vegas, an average 6.8% percent of all commercials seen in a day are law firm ads (see blue area on Figure 1, and information on Table 5). The frequency of attorney ads is such that a person could see an attorney ad every six to fifteen minutes (See Table 6). This frequency suggests that Las Vegas is a city with a high number of attorney advertisements, which might explain the relatively large number of cases brought to court seduced by the promises of “easy money” and “financial compensation” featured in attorney ads.

The increasing number of cases brought to court increases insurance costs. Compared to other cities, Las Vegas car drivers pay higher insurance rates. In an interview with Michael Geeser, president of the Nevada Insurance Council, reporters Patrick Coolican and Alex Richards compared the high cost of insurance rates to other cities, affirming that elevated health care costs, uninsured drivers, increasing car theft, frequent car accidents and subsequent law suits, are factors that affect the cost of car insurance in Las Vegas. Personal injury cases in Las Vegas are similarly high. “According to the Insurance Industry Institute, Nevadans file 39.7 injury claims for every 100 auto accidents. The national average is 24.5.” Referring to attorneys who advertise Geeser said, “Those guys are looking for work... They have their ads blasting, and as soon as you get in an accident, call one of these guys, and somebody is gonna pay” (Coolican and Richards 2009:1-3).

Fifty attorneys advertised during the five weeks in the study sample frame; some attorneys represented their law firms in a variety of commercials. From the different presentations I counted 110 different commercials running at different times of the day.

TABLE 5. Top Ten Commercials Most Frequently Seen in Las Vegas*

Type	Frequency	Percent
TV Station Programming	977	16.2
Car	565	9.4
Attorney Advertisements	409	6.8
Medicines	373	6.2
Public Service Announcements	299	5.0
Furniture, Appliances	212	3.5
Educational Institution	178	3.0
Fast Food Restaurant	173	2.9
Upcoming Films, Events	142	2.4
Wireless, Internet Services	135	2.2

N=6026

*Recorded 24-hour programming on: W 1/11/06 - Ch. 3 – NBC; F 1/13/06 - Ch. 5 – FOX; T 1/17/06 - Ch. 9 – Telemundo; R 1/19/06 - Ch. 12 – WB; M 1/23/06 - Ch.15 – Univision; T 1/31/06 - Ch. 8 – CBS; and M 2/6/06 - Ch. 13 – ABC.

Some attorneys change their television advertisements periodically, presenting a new approach to maintain viewer's attention. Overall, the number of attorneys who advertise is relatively small. According to the State Bar of Nevada, there are approximately 10,300 licensed attorneys in Las Vegas and approximately 4,914 of those

are in Clark County⁷. Four attorneys, Glen Lerner, Adam Kutner, Chad Golightly and Ed Bernstein advertised most often (see Table 7).

TABLE 6. Time Between One Attorney Ad and the Next

Time between one commercial and the next	Frequency	Percent
Not an attorney ad	5621	85.8
One After the Other	41	0.6
1 to 5 minutes	210	3.2
6 to 15 minutes	249	3.8
16 to 30 minutes	176	2.7
31 to 45 minutes	98	1.5
46 min. to 1 hour	47	0.7
1 hour to 1:30	35	0.5
1:30 to 2 hrs.	19	0.3
2 hrs. to 2:30	7	0.1
2:30 to 3 hrs.	3	0.0
3 to 4 hrs.	9	0.1
4 to 5 hrs.	7	0.1
5 to 6 hrs.	5	0.1
7 to 10 hrs.	1	0.0
First ad in the day, N.A., unknown	20	0.3
TOTAL	6548	100.0

N=6548 Includes all attorney ads recorded from January 11 to February 18, 2006.

⁷ Mary Jorgensen, member services coordinator at the State Bar of Nevada, responded to my email request for information on May 14, 2010.

TABLE 7. Top Thirteen Most Frequent Attorney Advertisements**

Law Firm/Attorney	Frequency	Percent
Glen Lerner	158	17.0
Adam Kutner	115	12.4
Chad Golightly	102	11.0
Ed Bernstein	90	9.7
Tingey & Tingey	58	6.3
Anthony Lopez	34	3.7
Bourgault & Harding	29	3.1
Eric Palacios	27	2.9
De Luca	27	2.9
Ellen Stoebling	22	2.4
Richard Harris	21	2.3
Weiss & Weiss	20	2.2
Haines & Krieger	20	2.3

N=927

**attorney advertisements recorded from January 11, 2006 to February 18, 2006

Qualitative Analysis

Attorney advertisements claim to be providing valuable information for viewers regarding legal rights and opportunities. Yet, the primary function of advertisements is to sell audiences' attention to companies and service providers for the purpose of increasing profits. Attorney ads are no exception; their primary function is to manipulate the fears, desires, and consumer ignorance to compel them to acquire law services. In chapters five

through nine, I examined five different themes in attorney advertisements in terms of various sociological analyses.

In these chapters, I use storyboards to present a visual representation of the sequence of shots in attorney advertisements. Storyboards are communication tools used in film and television productions to communicate the visual aspects in a sequence of shots. Its main purpose is to allow the producer, director, and all crew members to visualize the basic elements of the production. These could be drawn by “the director, producer, advertising agency or even the clients” (Medoff and Tanquary 1998:154.) Storyboards may include the “script,” “director’s ideas,” “use of props” (Burrows, Gross and Wood 1998:268), “talents of an artist,” “audio” cues, “video locations, shots, angles, graphics and transitions,” (Cartwright 1996:41) “pacing and timing of the program, and ‘edit’ the program for visual continuity and clarity of message. It allows producers to ‘direct’ the program on paper for overall visual and oral effectiveness” (Cartwright 1996:41). With this information, all people involved in a production have a sense of how “the finished product should look” (Medoff and Tanquary 1998:154).

I use storyboards to visually communicate to the reader a sense of the sequence of shots in attorney advertisements discussing the sociological meaning in these transitions. A formal use of storyboards would include explanations of camera angles, editing, audio, and production indications that I am not considering in all the examples. In few occasions, I discuss camera angles, locations, use of props, and other aspects as long as these could be explained sociologically. With this in mind, I have *selected images from the storyboards* and included explanations and sociological interpretations.

The following is a discussion on the main arguments presented in those chapters.

Constructing an Image

Attorneys construct an image in their ads in various ways emphasizing those characteristics they perceive to be important to prospective clients. I found seven dimensions in attorney presentations of self that include the following characteristics: (a) neutral or respectful; (b) sympathetic; (c) friend of family; (d) absent, physically withdrawn, or expressing body language misalignment; (e) patriarchal, condescending view, client as child-like; (f) abusive, demeaning, or mistreating the client (or viewer); and (g) celebrity status.

Gender Representations in Attorney Advertisement

I focused on how female attorneys/clients/personnel were represented in comparison to male attorneys/clients/personnel. I found that female lawyers were portrayed as less assertive and conveyed less information than male attorneys. Only five out of fifty attorneys who advertise are females. To explain how gender mediates the presentation of self, and to emphasize inequalities or stereotypes based on gender, I hypothetically reversed the roles between male and female characters portrayed in the commercial. By reversing roles, I question how the roles of males and females are socially constructed.

Ethnic Proximity, Legal Status and Immigration

Attorney commercials use symbolic representations to engage the viewer. The purpose of these symbols is to convey the impression that the attorney has racial, cultural features, empathetic, or sympathetic feelings toward the prospective client or viewer. For instance, some attorneys speak to the audience in Spanish, either in a casual or formal

language suggesting friendship rather than a strictly business relationship. Using Spanish also establishes the idea that conversations between client and attorney could be held in Spanish.

Culture of Fear

Attorneys invoke fear of violence and pain in their commercials in an attempt to induce the viewer to identify with the victim depicted in the ads. Personal injury attorney ads recreate scenes of accidents that range from those where victims are mildly hurt (e.g., images where a person is seen recalling the accident with no apparent injuries) to those where victims are severely injured or killed. Immigration lawyers present scenes of arrest that depict faceless immigrants in handcuffs. Images of courtrooms, police officers, and various legal symbols provide a warning of what may happen if a person does not consult with an attorney. In an attempt to induce the viewer to sue, attorneys describe injuries and symptoms of illness related to the use of products or medicines that may not have been considered or may have been overseen by the prospective client and for which they were not properly compensated.

Ethical and Legal Issues

In their advertisements, attorneys often point to major problems or changes in our legal system. First, they bring up the idea that some laws need revision (e.g., bankruptcy laws) or have been changed and these revisions or changes affect people who may need to find an attorney to fight for a right that they may not be aware of or clearly understand. Second, they point to institutions or companies that they claim come in conflict or limit a person's rights. For instance, some attorneys highlight that insurance companies may attempt to manipulate information or deny a person's right for a fair compensation in

personal injury cases. Third, lawyer advertisements describe how other attorneys provide services and, in their rhetoric, the attorney advertising may imply that *others* do not act in a professional manner, do not handle their cases in person, or do not have the experience needed to handle a case. Fourth, the visual, aural, and textual content in some attorney advertisements could be confusing to the viewer. Fifth, some attorneys sell the idea that suing might be a lucrative option for transforming injuries, bankruptcy, and disease into commercial opportunities for both a client and the attorney.

Suggested in these arguments is the depiction of a viewer who is misinformed and unaware of options; and a legal system that does not reach the public unless the information is mediated by attorneys. People are not aware. This is not an individual's personal crisis, but a reflection of a misinformed society. This type of depiction may suggest questioning how democratic our society is, and how some "legal knowledge" is kept obscure and turgid, protected from reaching the general public.

Conclusion

Attorney advertisements are the third largest televised commercial type in the Las Vegas television market. The advertisements use a variety of marketing schemes that replicate those of commercial products. Las Vegas attorneys who advertise manipulate fears and desires, replicate stereotypes, and take advantage of viewers' ignorance to present themselves as mediators or the sole authorities for where people can get the advice and help they need. Although attorney ads might be necessary to inform the viewer that legal help is available, these ads are not attempting to explain but to engage an audience through various marketing strategies similar to those of commercial products. The original Supreme Court's intention to allow attorney advertisement to

fulfill a social function and inform the public of their legal rights and opportunities does not actually occur in the advertisements I sampled. Indeed the format of television advertisement is not conducive for such task.

A common feature to attorney advertisements in my sample is the *deus ex machina* theme. In theatre, the *deus ex machina*⁸ is a plot device in which a character appears at the end of a scene or somewhere along the plot to solve the problems that other characters could not resolve by themselves. The *deus ex machina* brings words of wisdom, takes decisions, solves problems, and brings peace in chaotic circumstances. This god-like figure appeared first in Greek tragedy and continues to be used in literature, theatre, and film. The logic of this character is not only that it is a more powerful figure than other characters in a story/play/novel/or film, but s/he (more likely a male character) operates in ways that the rest cannot comprehend. His wisdom is so far superior that those who benefit from the solutions presented by the *deus ex machina* accept it without questioning. The character may use magic, resolve things by improbable devices, and come up with solutions out of reach of others. The other characters learn that the *deus ex machina* excels in force, intelligence, and resources. He is a hero removed from the mundane but immersed momentarily in the plot to help solve problems.

I find that attorneys use this device in many of their televised commercials presenting themselves as the only ones who can help find solutions, portraying themselves as strong and knowledgeable enough to defend a person in court, and capable of bringing relief in a chaotic situation –such as DIU arrests, immigration problems, or car accidents. They do so by using legal language in a manner that lay people cannot convey, with the skills, experience and connections that far exceed those of their clients.

⁸ Literally translated in English as: God out of the machine.

In their commercials, some attorneys use the few seconds available to present themselves as the deus ex machina character that saves the injured, the illegal immigrant, or the bankrupt person. This presentation sends an invitation to prospective clients to employ the attorney who will miraculously save their day. This presentation of self is understood in our society and supported by the networks available through the legal system. The use of legal language is thus the medium that facilitates the establishment and support of attorneys in their hierarchical professional positions.

CHAPTER 5

CONSTRUCTING AN IMAGE

This chapter discusses attorney portrayals on television advertisements. When attorneys present themselves on television, they portray an image in front of viewers that is informed from different sources. The overall projected meaning in a television commercial is explained through media conventions arranged by television producers, directors, and crew; through the symbolic realm that encompasses representations seen within the frame; through the projected self-image portrayed by the attorney in front of the camera; and through interactions with others depicted in a commercial. These four elements combined provide a meaning contributing to the image conveyed by an attorney that viewers see on television.

First, traditional media conventions refer to standard practices for staging representations for the screen. Media personnel—directors, editors, stage managers, lighting and camera crew, audio and video operators, writers and producers—set up a plan to shoot a television commercial staging the actions of the attorney and other talent within a space; the movement of the camera around the set; choice of area depicted that surrounds the attorney and talent; manipulation of lights, audio, and distance to the camera. Camera placement, for instance, conveys a particular meaning that affects how viewers perceive the person portrayed—a person depicted at eye level is seen as a natural portrayal, below eye level tends to enhance authority as the person seen on the frame looks down at the viewer, and above eye level suggest that the person depicted in a commercial is diminished or looked down at. Finally, distance from the camera affects the manner in which people see attorneys and others, varying from close-ups to long

shots, viewers are driven through spaces that approximate and familiarize to the physical characteristics of those portrayed on television. The closer the camera is placed in relation to the person portrayed, the more the viewer will be pulled into an intimate space closer to the physical characteristic to the actor or talent on television. The longer the distance from the camera the more information the viewer will receive in terms of location, time, and symbolic arrangements that affects how the viewer will perceive the actions taking place.

Second, symbols presented in the advertisement, such as, photos, diplomas, computers, books, information on the lower third (L/3); text added on the screen with information; use of logos, idiomatic expressions, catchy phrases, nicknames, and labels; text or language; sound effects, music, and songs are all part of the meaning conveyed in a commercial. This symbolic realm is part of the message, and may be carefully planned before the commercial, or unintentionally displayed or portrayed. Calculating the effect of all symbols is important since these are part of what the viewer sees and hears when interpreting an attorney commercial.

Third, attorneys in a televised commercial construct an image through several verbal and non-verbal communication displays. Their self-construction will be informed from the activities portrayed, tone of voice, visual contact with the viewer which includes making eye contact or removing his/her eyes from view, mannerisms, movement within the stage, clothing, personal appearance, posture, mood, gestures, roles portrayed, and emotions displayed. This self-construction focuses on the person, the attorney who stands in front of the camera and is read by viewers based on the character and personal characteristics s/he communicates.

Fourth, when attorneys interact with others in their commercials they reveal themselves, giving cues about who they are and how they react in relation to others. The *other as an expression or revelation of self* is not as overt as words said or messages written, it is interpreted or misinterpreted by viewers. How attorneys interact with others portrayed in their commercials, and how their clients are portrayed, constitute hidden cues that reveal who they are, illustrating more about their personalities, character, ethics, mannerism, respect, and intentions among others.

This last category is important because how attorneys portray *the other* is a reflection of *who they are* and *how they behave* in the presence of *the other*. If the client looks satisfied, the attorney's self construction reveals that s/he has done a good job; if the client looks afraid, it reveals that the attorney does not think a client is capable of feeling well without his assistance, therefore attributing power to the attorney's actions; if the client is regretful for not contacting him or her, it may reveal the authoritarian nature of the attorney that sees the client as lost without him or her; if the client is punished, pushed, diminished, hit, or killed, it reveals that the attorney intends to inspire fear in the viewer of the possible consequences of not contacting an attorney.

The way attorneys portray their clients is a mirror reflection of how they see a mental image of a relationship between attorney and client that reveals a structure. How they portray their clients, what they do to them, how they talk to them is more indicative of who they are, and what a client might expect when contacting the attorney. Calling a client names or when the attorney calls himself/herself by name constructs, lower, or aligned in relation to their clients. Hewitt (2007) presents the following examples to illustrate how naming the self and others implies identity:

To think of oneself as ‘friend’ is to think of another also as ‘friend.’ To feel ‘embarrassed’ is to feel the weight and presence of another who is the ‘judge’ or ‘audience’ of one’s action. To see oneself as ‘professor’ is implicitly to imagine a ‘student’ as one’s partner in interaction. To name and thus imagine the self is to name and imagine the other. (P.91)

Attorneys do have control over the elements of their self-construction and may also manipulate some of the elements in the symbolic realm. Their choice of clothing is part of the image they communicate to viewers. Hewitt (2007) explains, “Appearance is important not only because it provides us with the cues we need to typify someone initially but also because it assists us in maintaining and refining that typification as interaction proceeds” (p.151). Bringing an example of how a physician communicates his self presentation by managing appearance, Hewitt (2007) continues:

We assign identity to the physician on the basis of appearance—by dress, demeanor, and conduct in the examining room—but we continue to rely on appearance for other cues that will refine typification. On the basis of tone of voice, body posture, and facial expression, we may typify the physician as cold or warm, self-confident or uncertain, interested or distracted, about to deliver good news or bad. (P. 151)

Attorney portrayals need to be aligned with the important role they portray in society using media tools in order to construct the image the viewer will read. People will be interested in knowing or acquiring more information about who the attorney is. In *The Presentation of Self in Everyday Life*, Erving Goffman (1959) explained that, “When an individual enters the presence of others, they commonly seek to acquire information... They will be interested in his general socio-economic status, his conception of self, his attitude toward them, his competence, his trustworthiness, etc” (p.1). People

need to acquire information to guide their actions toward that person, to respond in interactions, and to adapt their behavior in response to how the other presented his/her image. In television, a similar pattern occurs. The person, in this case, the attorney, presents an image that the viewer interprets, and from that interpretation the viewer will respond in a manner that may transform his/her role from viewer-to-consumer, in the best case scenario for the law firm. The opinion formed based on the presentation of self will invite a variety of reactions; the person may respond by inquiring, neglecting, ignoring, resenting, expecting, relying, trusting, distrusting, avoiding, or interrupting by switching channels. Since the same presentation of self will be part of television programming, the same message and image will repeat the information providing the viewer with frequent exposure to that representation.

In face-to-face interaction, the individual who enters a room and presents himself/herself in front of others, has a chance to measure reactions and adjust his or her behavior according to the reactions s/he reads in others. As such, s/he may adjust her or his behavior in order to achieve a desired impression and gain acceptance. Television does not provide that opportunity, unless the attorney performs in another commercial.

Although, the viewer will become acquainted and familiar with the image portrayed, recognizing the message, and may even learn and recall information—such as phone numbers, names, and location—that is no guarantee that the viewer responds positively. It just means, that frequent exposure allows familiarity. Several attorneys have expressed good results and how their business grew after they advertised⁹. The reason for

⁹ Peter Miller, an attorney from Little Rock, spoke of his experience using different media to advertise his services. He said, “I find that direct mail is pretty much a waste of time...TV advertising works the best along with word of mouth...The value of TV is that it’s immediate, if I run an ad at 9:12, I’ll get three phone calls by 9:15” (Waldon, 1990, p. 1)

this, is not that they may have conveyed a positive image in the eyes of the viewer, the reason is that in our society there are no alternative ways to access information about attorneys, much less about legal rights. If a person needs to act fast after an accident, s/he will respond by accessing any kind of information already familiar to her or him. If viewers need to find an attorney fast, they may respond by bringing to mind the only name(s) that has been nagging before, after, and in-between their favorite television program. It is not a matter of trust; this is a stimulus-response reaction.

Evolution in Consumer Expected Thought

Emotions affect the decisions people make. These emotions can predict negative or positive outcomes. When people have to make a decision “emotions arise in response to a decision process wherein a person compares anticipated pleasant outcomes or expected goal achievement and anticipated unpleasant outcomes or expected goal failures with personal standards or reference values” (Bagozzi, Baumgartner, Pieters, and Zeelenberg 2000:51). How accurately an attorney is portrayed in his or her commercial will impact the decision process. If the image of the attorney has been damaged by a commercial advertisement, a potential client can anticipate unpleasant outcomes, whereas if the image of the attorney has been enhanced by his or her commercial, potential clients may anticipate good results, both in terms of their interaction with the attorney and in the attorney’s capability to accomplish favorable results.

One of the most difficult tasks for advertisers is to grab the attention of viewers. The use of new technologies¹⁰, such as, surfing the Internet, watching programs online,

¹⁰ Local attorneys understand the impact of using new technologies to reach prospective clients. Attorney Ed Bernstein, notorious for being one of the first attorneys to advertise in Las Vegas, launched an advertising campaign on television communicating with clients by text messaging. “People who text him receive an automatic response with five options, including requesting a chat with a live representative”

skipping commercials and fast-forwarding on television, among others, give viewers more control over what they see. Many viewers opt for avoiding commercial advertisements in their totality. Model 1 is a representation of what advertisers might expect out of consumers' behavior (see Figure 3).

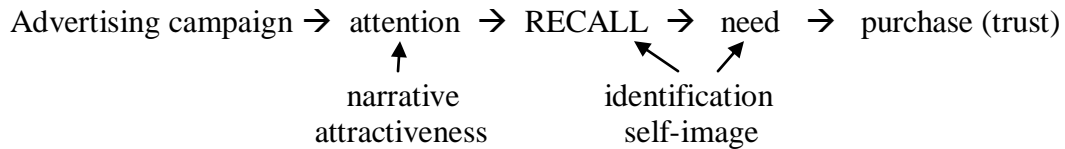


Figure 3. Model 1 – *Linear Evolution of Expected Thought*

This basic model starts with the advertising campaign. Viewers would pay attention to a commercial based on the narrative or attractiveness of the elements of the commercial. After frequent exposures, viewers will recall the products or services advertised. They would either identify with the characters or create a desired-image. This will lead to the creation of needs. Once a need is created, viewers turn into consumers who will purchase a product or acquire a service. Trust in the product is a process that begins with the identification with the characters on the ad, but will continue after the purchase of the product. If consumers fail to achieve the predicted results, this trust will diminish or end completely.

(Robison 2010). In an interview for the Las Vegas Review Journal, Bernstein explained, "If you want to reach out to potential clients under the age of 40, texting is a really important way to do that," said Bernstein, adding "I see texting as another new beginning, another first for our firm that will help us make legal services available to the public as easily as possible." The cost of this inventive form of reaching audiences is yet to prove success, although Bernstein claims having invested "more than \$50,000 in the texting initiative since his firm began coordinating it nearly a year ago [in 2009]" (Robison 2010). Other attorneys in Las Vegas are reaching audiences as well, having websites, and email addresses available.

The evolution of attorney advertisement follows a different model. The elements displayed in the basic model are still present, but in a different order. Television presents commercials in narrative form; these stories inform people of the possible goals they can achieve if they purchase or acquire a product or service. Attorney advertisement is no different. In a few minutes, attorneys have to sell an image that will persuade people to trust in their capabilities. People may identify with this narration, or make sense of it. However, there is another alternative, that is, people can disagree with the narrative or challenge an aspect of the narrative or symbolic message.

One of the possible reasons to choose an attorney based on their television ad is attractiveness. Attractiveness refers not only to physical attractiveness of the lawyer and associates, but also the aesthetics of the commercial. Some commercials are notorious for demanding attention from viewers. The use of lighting schemes, appropriate setting wardrobe, and make-up, as well as good editing techniques, composition, and framing can be significant.

Studies of physical attractiveness pointed out the advantage of attractive people vs. non-attractive. “In exchange theory’s terms, simply interacting with a physically attractive person might be seen as a benefit, perhaps substantial enough to offset any costs anticipated from the interaction” (Mulford, Orbell, Shatto, and Stockard 1998:1570). Some viewers might perceive attorneys and/or their associates as physically attractive and extend this perception to other qualities. The implication of other qualities is the “halo effect of attractiveness” (Mulford, et.al. 1998:1570). This particular extension is characteristic of Western societies that praise beauty above other qualities, especially in relation to people seen on television.

The model of the evolution of attorney advertisement would follow the following pattern (see Figure 4).

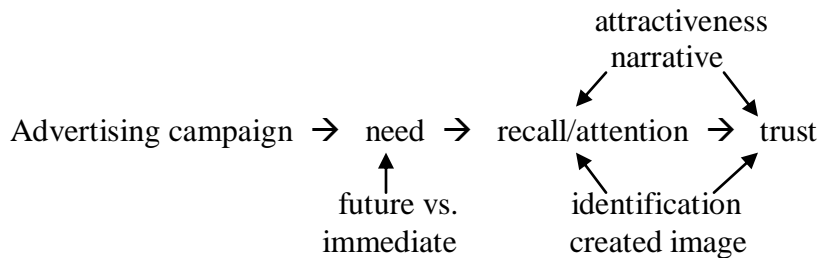


Figure 4. Model 2 – *Case of Attorney Advertisement*

In this case, the need for an attorney, unlike other needs, is an *assumed* “future need.” According to Lowenstein (1995) this kind of need “may be emerging or presenting themselves because of technological or societal changes” (p. 47). Consumers are not created after an advertisement campaign; need for an attorney is often the result of an occurrence or the prediction that a person will be involved in a legal lawsuit after an event. It is at this instance when a possible client will recall a commercial seen on television or will pay immediate attention to a commercial that is presented on this medium. Trust, in this model, is an emotional reaction that happens at the point when the viewer is in need of an attorney. Trust is also the result of the perceived image of the attorney throughout his or her advertising campaign, even when the viewer was not in need of an attorney.

Who Constructs the Image?

The manner in which attorneys talk to their clients in their advertisements could be interpreted as a mirror reflection of how they consider themselves in relation to them.

How they address clients articulates their self-perception. An attorney may behave in a sympathetic, condescending, frightening, aggressive, alienated, irresponsible or impatient manner in relation to the client and this portrayal illustrates who they are and how they behave when representing a client.

Attorneys may not be fully in charge of designing their commercials. By this I mean, the attorney neither operates behind the camera, no writes a script, hires actors for his/her commercials, directs the actions in the scene, chooses the lights or filters used in the set, chooses the clothes for actors, nor edits the final product. These are choices of those who are in charge of shooting the commercial. In general, advertising agencies design the commercial, but the attorney has a base idea of how they want to portray themselves. A sympathetic attorney does not receive instructions to yell and make a fist when talking to the viewer, and an aggressive attorney who wants to portray himself as a fighter does not receive instructions (or would agree to follow) to hold a client who wants to cry on his shoulder. A female attorney might not be aware that the lower third graphics will fall on her chest in a bust-shot, but she may have chosen her wardrobe. The overall look of the commercial can be negotiated, but attorneys might not be fully responsible for the stereotypes replicated in their commercials. While not being behind the camera, attorneys could be guided by their common sense and can understand the flow of the events when shooting a commercial.

Traditional media, in general, are more likely to portray reality through men's eyes. According to Van Zoonen (1994) "the media industries are dominated by men, and in the western world they are dominated by white men in particular" (p.50). This lack of female representation affects the production of commercial advertisement sensitive to

portraying females in a competent manner and preserves the stereotypical gendered and social representations. As a powerful tool for socialization, traditional media reflections of reality including male and female representations need be examined as instrumental in identity-formation and reality-perception. Quoting from Neuendorf, Macnamara (2006) explains, “To the extent that mass media content is involved in the causation of social effects, media content analysis can draw inferences about media producers’ intent and, with reasonable probability, make predictions about likely attitudes and sometimes behaviors in audiences” (p. 76-7; see also Neuendorf 2002:53).

I called different attorneys in Las Vegas requesting more information about their advertisements. Only one attorney called me back and gave me extensive information regarding his commercials. He said he worked with an advertising agency specializing in lawyer advertisements. Later, I found out that his representation is a package sold to other attorneys in different states. The music, slogans, and gimmicks that appear in his commercials appear in other attorneys commercials in other places. In some occasions, the person who answered the phone gave me the name and contact information of the local advertising agencies in charge of the commercials. In one case, I received information that the attorney had a person in charge of the commercials working for him exclusively. For Hispanic advertisements, I found that local television stations are in charge of shooting most of the lawyer advertisements in Las Vegas, therefore, it may be that Hispanic TV stations replicate the stereotypes that some people may find offensive to the Hispanic community.

The following are different examples of how attorneys portray their clients and themselves. My argument here is that their attitudes and portrayals toward their clients

are reflections of themselves as lawyers. The following examples cover the dimensions displayed in attorney portrayals, depicting the following presentations: neutral or respectful; sympathetic; friend or family; physically withdrawn, absent, or body language misalignment; client as child-like, patriarchal attorney, or condescending view; abusive, demeaning, or mistreating the client (or viewer); and celebrity status.

(a) *Neutral or Respectful*

An attorney portrays a respectful image when s/he implies that the client or viewer could make an informed decision. The attorney presents himself or herself as an option, but respects the viewer's decision to make a choice. The advertisement does not portray fear, manipulates emotions, promises outcomes, but provides with attorney services as an option that the viewer may or may not opt to follow with no consequences for the viewer.

Advertisement 19: Rob Graham

This advertisement starts with a medium shot of attorney Graham in his office. Framed against a tall shelf of books, a common symbol in attorney advertisement that denotes legal expertise and knowledge, attorney Graham is seen sitting behind his desk. He lifts his head to talk to the viewer (see figures 5a – 5c). The camera pulls slowly in and finishes framing him in a close-up. The ending close-up denotes sincerity and empathetic feelings. Attorney Graham starts by asking the viewer if they need a trust or will and provides his phone number for an appointment. This approach is respectful. It gives the viewer choice, does not command or attempts to induce guilt in the viewer. After asking this question, he offers his services.

His tone of voice is pleasant, calm, and approachable. He makes eye contact with the viewer after a brief moment since the commercials starts with a voice over saying the attorney sponsored closed captioning of the previous program. This presentation of self conveys crucial information that, using Goffman's (1959) terms, implies that "the individual starts to define the situation and starts to build up lines of responsive action" (p.10). The attorney builds an image that the viewer may use to interpret and anticipate future behaviors. Although Goffman was referring to face-to-face interactions, the descriptions he proposed apply in this case. Goffman (1959) explained, "The individual's initial projection commits him to what he is proposing to be..." (p.10). If this initial portrayal conveys a respectful demeanor, the viewer may anticipate that such demeanor will not change dramatically in face-to-face interactions.

IMAGES FROM STORYBOARD



Figure 5a, 5b, 5c: This brief advertisement starts with a medium shot of attorney Graham in his office. The camera pulls slowly in and finishes framing him in a close-up. The ending close-up denotes sincerity and empathetic feelings.

(b) *Sympathetic*

The attorney portrays a special affinity with the viewer or conveys the impression of understanding. S/he expresses an interest in responding to the viewer's situation.

Attorneys Golightly and De Castroverde make an impression by placing themselves in the role of the viewer/potential client. Golightly tells the viewer that he recalls when his family was about to lose everything they had. De Castroverde explains that he is an immigrant just like the viewer and understands what it means to be in those shoes.

Advertisement #5: Golightly in the Farm

I have found many different presentations of self in Golightly's commercials. This one in particular appeals to the viewer who may need to find a sympathetic voice that understands struggle and loss. Watching horses in farm and wearing casual clothing, attorney Golightly waits in a medium shot profile for his introduction. He connects with the viewer looking directly into the camera (see figures 6a – 6c). Using a soft and sympathetic tone of voice he explains that he reduces his fees to “help his clients.” He uses descriptions such as, “innocent victims” when referring to clients who have lost their properties. In using these words, he diminishes their clients' strength while empowering his position. He understands how helpless people may feel when going through this process, especially when they are “innocent victims” of somebody else's actions. This weakness makes him authoritative, he is the one who could come to the rescue and give people relief.

He presents an analogy calling “his clients, his friends” and offers his lower fee reduced to 22%. He promises to help clients –in comparison to other attorneys who keep a higher fee—by saving some extra money to relieve those clients struggling with debt. He places himself in the shoes of the client, by saying, “I remember how close my family came to losing everything they had due to a serious accident caused by somebody else...”

He relates to the viewer by recalling his own experience when his family came close to losing their properties. He empathizes with the situation.

IMAGES FROM STORYBOARD



Figure 6a: Attorney Chad Golightly talks in a sympathetic tone telling the viewer that he reduces his fees to help his clients.



Figure 6b: He depicts his clients as “innocent victims” diminishing their strength while empowering his.



Figure 6c: He calls his clients “his friends.” His way of expressing friendship is by lowering his fees to 22%.

Golightly recalls within himself for a time in his history where he could connect with those emotions and presents that to the viewer. His different portrayals in other commercials embrace many different roles and sides in his identity construction, or it may be the strategic plan to embrace as many presentations to leave no representation uncovered, so the viewer will identify with at least one portrayal. Goffman terms this strategy a *meticulous* construction. According to Goffman (1959) “...confidence men must employ elaborate and meticulous personal fronts and often engineer meticulous social settings, not so much because they lie for a living but because, in order to get away with a lie of that dimension, one must deal with persons who have been and are going to be strangers...” (p.225). The changes in settings and the use of multiple roles in Golightly’s commercials describe him as a meticulous business man who articulates

different presentations to achieve his goal. The use of different settings, in this case, a farm, and his performance—e.g. he stands on a profile thinking for a few seconds while a voice over introduces him, then he turns around to tell the audience he *remembers* and *understands*—is different from other depictions where he displays his more aggressive side and says he is ready to fight.

Advertisement #44: De Castroverde

De Castroverde's medium shot image is superimposed against a still photo of the Immigration office in Las Vegas (see figures 7a, 7b). This juxtaposition is not innocent; it is constructed to complement his claim and make a visual impression on the viewer. He achieves the purpose of informing the viewer that he knows the building depicted symbolizes the problem of immigration. Speaking in Spanish directly into the camera, De Castroverde gets straight to the point and strictly limits his presentation to inform the viewer that he is an immigrant. The viewer is required to fill in the gaps. *I am like you*, and from that experience *I know what being an immigrant means*. He does not manipulate, he presents himself with the facts about his experience. He says, "Yo soy un inmigrante como ustedes..." (Free translation: "I am an immigrant like you...") and urges the choice by linking his experience as an immigrant with that of the viewer.

(c) *Friend or Family*

I examined three different portrayals in this section. First, the attorney portrays himself as a family member and is seen in a televised depiction with his own family. Second, attorneys may not include their relatives in the commercial but are depicted posing next to family portraits in the background (spouses and children). They want to be perceived as family members. Third, the attorney who says he will treat the client as

family or friends. In these cases, the idea is to create a link between the client and the attorney based on their family values or the promise of treating the client like a friend.

IMAGES FROM STORYBOARD



Figure 7a: The advertisement uses the Immigration office as a setting.



Figure 7b: De Castroverde tells viewers that he is an immigrant like them who understand their needs and problems.

Advertisement 13: Cassady Law

Attorney Jason Cassady presents himself as a family man whom the client can trust. In his commercial, he is seen in a medium shot posing with his wife and baby (see figures 8a, 8b). He talks directly to the camera urging viewers not to leave their families unprotected without a trust or will. His baby and wife are displayed as symbols of his status as family man. By posing with them he seems to open his home to the public, as if he were saying that he has family values that the client can trust. The text examined along with the symbolic meaning of presenting himself as a family man with his wife and baby attempts to work on viewer's guilt, "don't leave your family with more questions than answers." He seems to imply, *this is a family like yours, don't leave them alone, protect them with a will and trust*. Such a portrayal invites the client into his living room,

implying *this is who I am when I go home, just like you*. This depiction follows an expectation to be valued for the principles he portrays. According to Goffman (1959):

... [A]n individual who implicitly or explicitly signifies that he has certain social characteristics ought in fact to be what he claims he is. In consequence, when an individual projects a definition of the situation and thereby makes an implicit or explicit claim to be a person of a particular kind, he automatically exerts a moral demand upon the others obliging them to value and treat him in the manner that persons of his kind have a right to expect. (P. 13)

Attorney Cassidy appeals to the sensibility toward nuclear families, appealing to the viewer's sense of values, and requesting recognition for that role in his life that gives an account of who he is. He anticipates recognition that this is a good and moral standard that audiences will value in him and extend as a quality appreciated in an attorney.

IMAGES FROM STORYBOARD



Figure 8a: Attorney Cassidy portrays himself as a family man with his wife and baby. He urges viewers not to leave their families unprotected without a trust or will.



Figure 8b: Using a frame within the frame, attorney Cassidy is portrayed like in a family portrait informing the viewer of his two locations in Las Vegas.

Advertisement 87: Neeman & Mills

Neeman and Mills Law Firm create proximity by saying that contacting their law firm and acquiring their services is like having an attorney in the family. Other attorneys may say a similar message, “we treat you like friends,” “call your friends in my office” or other examples that attempt to build trust. Goffman (1959) explains that people study their motives and carefully craft their performance to achieve their intended goals. He explained, “...a performer tends to conceal or underplay those activities, facts, and motives which are incompatible with an idealized version of himself and his products. In addition, a performer often engenders in his audience the belief that he is related *to them* in a more ideal way that is always the case” (p.48). The language used in the Neeman & Mills commercial conceals the idea that money and a business relation will mediate the interaction between clients and attorneys. A business transaction between attorney and client is going to take place that has no resemblance to talking to a friend or family. The *idealized* version in this presentation of self that describes a business that operates *like a family* appeals to the viewers’ emotions to attract them clientele.

The advertisement starts with medium shot depictions of injured people (see figure 9a – 9c). A cook is visible in the foreground holding his left hand representing an injury. Other injured people are also seen in the background. The text in Spanish superimposed in this image says, “Que lastima que usted no tenga un abogado en su familia” (free translation: It’s a pity that you do not to have an attorney in your family.”) A male voice-over makes an emphasis on “anyone in your family” could be hurt or injured in a car accident or work related injury. In alternative medium shots, all the attorneys in the law firm introduce themselves to the audience saying their names;

attorney Chacon identifies himself as the attorney for the Hispanic community. The ad ends in an image juxtaposing the close ups of all the attorneys in the foreground and the happy clients smiling in the background.

IMAGES FROM STORYBOARD



Figure 9a: This advertisement starts with depictions of injured people. The text superimposed in this image says, “It’s a pity not to have an attorney in your family”.



Figure 9b: Attorney Chacon introduced for his relation to the consulate of Mexico.



Figure 9c: All attorneys depicted in the foreground, and the happy clients in the background.

(d) *Physically Withdrawn, Absent, or Expressing Body Language Misalignment*

When Karl Marx spoke of *alienation*, he spoke of a human condition where the individual remained separated from his “material and mental world” (Schweitzer 1992:28), “products” (Barthel 1988:2), “material work,” “creative” process (Ollman 1986:131) and became deprived from expressing, fully developing, or relating to his human condition. Such inhumane existence was (and is, for Marxist followers) the condition of people under capitalism. The word *alienation* in sociology is charged with political and economic meaning. I was inspired by this term, not in relation to Marx’s complex meaning, but as a description of an individual being *withdrawn* or *removed from*

and not fully involved in an activity portrayed or action described in a commercial advertising. There might be a slight resemblance in the meaning concerning the separation of the self from the process of material production. When attorneys advertise their services, these become the product that they commercialize. If they are not involved in the labor and each part of the activities that relate to offering services, *they are alienated from the product*. This evaluation becomes problematic when examining that different professions demand the distribution of work among different people, as such, any instance where a person assigns activities or delegates responsibility from the totality of work cannot be interpreted as an instance of alienation. For this reason, I use the terms, physically withdrawn or absent, to describe portrayals that displays a misalignment between actions or performance, and discourse or message.

In television advertisements, as in any other rhetorical act, there can be misalignments between what a person delivering a message does and what s/he says. One of the premises is that “no matter how hard we try to practice what we preach, we find ourselves in the situations where our actions do not match our words...we may deliver more than we promise” (Shalin 2001:6). According to Shalin (2001) when observing rhetorical forms, three significant media that form a triangulation might be observed: the words used in the message, called *symbolic discursive*; the physical expressions or *somatic-affective*; and the culturally based actions or deeds, called *behavioral-performative* (p.198). These three components are examined in order to understand in depth the character of the rhetor. In my evaluation, I refer not to a triangulation of these three components, but the alignment between the *symbolic discursive* and the *somatic*

indices, since these two are the only sources of information that could be derived from observing a commercial advertisement.

In attorney commercials, disparities in self presentation can be expressed in three forms: Physical withdrawal, absent, and through body language misalignment.

(d.1.) *Physical Withdrawal*. This category refers to instances when the attorney is seen in the commercials but s/he is removed from the problems expressed by clients, and is not depicted along with clients expressing their problems.

Advertisement 3: Ed Bernstein – Physically Withdrawn

In this advertisement, a medium shot of a young couple is portrayed in a kitchen. Speaking directly into the camera, the man shares with the audience his frustrating experience after a car accident. He says, “I didn’t know what to do. We’re not the suing type.” The woman adds, “But we should have called Ed Bernstein,” expressing their regret for not contacting the attorney. In a different location, posing in a close up portrayed against a dark background, attorney Ed Bernstein talks to the audience offering his law firm services to people hurt in an accident (see figures 10a – 10c).

IMAGES FROM STORYBOARD



Figure 10a: A man shares with the audience his frustrating experience after a car accident.

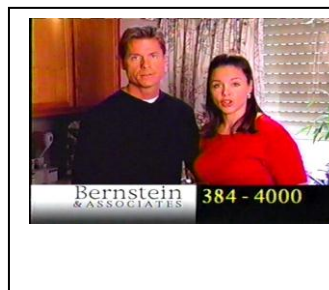


Figure 10b: She expresses their regret for not contacting attorney Ed Bernstein.



Figure 10c: Ed Bernstein talks to the audience offering his law firm services to people hurt in an accident.

In this type of portrayal, attorney Ed Bernstein is not involved in the resolution of a couple's problem. After they express their concerns, the attorney appears in a different shot, not fully involved with his clients' problems, and removed from their pain and suffering. Bernstein is not part of the resolution of their problems, although as they say, he could have been.

(d.2.) *Absent*. The attorney is not portrayed in the commercial, but introduced by clients or personnel who speak on his/her behalf.

Advertisement 15: Ellen Stoebling – Absent

Attorney Stoebling is not present in this advertisement. Her services are introduced through the testimony of a female client who describes the painful events and the financial impact this accident had on her life. The transitions in locations in this commercial are symbolic. In the first shot, we see the close up of a woman describing her situation talking in front of a mirror. The viewer sees her reflection that symbolizes a past resemblance. In distress she explains she “sustained a life-changing injury.” She exacerbates the feeling of loss and despair by saying “our world as we knew it would never be the same.” She turns to the viewer, as the camera pulls out to a medium shot, and a man (that could be playing the role of her husband) brings her a cup. Her tone changes, she smiles as she describes how attorney Stoebling “gave [them] a new life.” The next shot takes place at the stairs. The man and woman are seen in a medium shot at the top of the stairs, wearing party clothes, visually happy while emphasizing that Ellen Stoebling made the insurance companies pay. She states her relief as attorney Stoebling took her case and secured financial compensation. The party dress and happy attitude suggest not only that she successfully recuperated from the accident but also that they

were able to achieve financial gain. She thanks attorney Stoebling for “fighting for her” and making the insurance company pay (see figures 11a – 11c).

Ellen Stoebling is not seen in the commercial, we know of her achievement through the testimony of a person who briefly describes her experience taking the viewer into the journey that starts in the recollection of tragic memories, relief when contacting the attorney, and the beginning of a new life.

IMAGES FROM STORYBOARD



Figure 11a: Stoebling’s services are introduced through the testimony of a client. She describes the painful events and financial impact she went through after a car accident.



Figure 11b: After contacting attorney Stoebling, her life went back to normal.



Figure 11c: The party dress & happy attitude suggest she successfully recuperated from the accident. She thanks Stoebling for “fighting for her.”

Advertisement 24: Aaron & Paternoster – Absent

Introduced by clients and a Firm’s Spokesman, Aaron and Paternoster are not depicted in the advertisement. The law firm services are introduced by testimonials of actors depicted as clients. The firm spokesman makes an emphasis by using the pronoun “we”: “we know what you’re going through,” “we know what do to help you get out of debt.” Is this a person who works at the law firm, or an actor hired to portray the role of spokesman for

the law firm? The roles depicted are not clear, the person identified in the commercials as spokesman could be a person who works at the law firm or an actor hired to portray the role of spokesman. Attorneys Aaron and Paternoster are not visible.

Several graphics are displayed on the left of each of the actors representing clients saying, “bills,” “creditors,” “debt out of control,” “get out of debt”...as each actor portrayed as clients present their situations. The graphic juxtaposed next to the spokesman says, “We know what to do.” Yet, the viewer does not know if this person is an actor or a spokesman for the firm (see figures 12a – 12d).

IMAGES FROM STORYBOARD



Figure 12a



Figure 12b



Figure 12c



Figure 12d

Advertisement 94: Richard Harris – Absent

The advertisement starts with graphics saying, “hazardous product recalled” placed against a tile wall. The next image portrays three or four bottles of a product called *Stand ‘n Seal*, on the right side graphics indicate that this product has been recalled and is sold exclusively at the Home Depot. A male voice over informs the viewer of the possible symptoms associated with the use of this product: dizziness, coughing, shortness of breath, and vomiting, while the image of a man is seen on the screen that may represent a person who has been exposed to this chemical. Richard Harris is not present in this commercial, the only reference we have are his presentation card and firm’s logo (see figures 13a – 13d). This is suggestive of the transformation of his attorney services into a

commercial business, where a logo conveys information and has an established impact on the audience. With time and exposure, viewers get educated into recognizing the name and logo. The advertisement targets a specific population, those who have purchased the product or had exposure to *Stand 'n Steal* spray-on sealer.

IMAGES FROM STORYBOARD



Figure 13a



Figure 13b



Figure 13c



Figure 13d

(d.3.) *Body Language. Textual and Visual Misalignment* occurs when the body language of the attorney seems to contradict his intention to assist clients. While the textual information might express the attorney’s concerns, his or her attitude or demeanor seems to indicate that s/he is removed from the scene.

Advertisement 4: Attorney Adam Kutner – Body Language Misalignment

Goffman (1963) identified the capacity of people to divide attention to different activities. He called this *involvement*. According to Goffman (1963) “Involvement refers to the capacity of an individual to give, or withhold from giving, his concerted attention to some activity at hand” (p.43). People can choose their level of involvement in the activities they portray assigning some as more important than others. Goffman (1963) explains, “A main involvement is one that absorbs the major part of an individual’s attention and interest, visibly forming the principal current determinant of his actions. A side involvement is an activity that an individual can carry on in an abstracted fashion

without threatening or confusing simultaneous maintenance of a main involvement”
(p.43).

In one of his commercials, attorney Adam Kutner walks along in different locations. He is seen in a medium shot walking in the foreground of the screen, while different scenes occur behind his back or parallel to where he stands. There is a misalignment between what he says and what he does in this depiction. The advertisement itself presents a portrayal where his actions and body language give a different message from his text. Based on the text, he gives the impression that he will be present and fully involved at every step of the process. Based on his portrayal he is depicted talking directly to the camera and/or observing from a distance: First, attorney Kutner walks on a street parallel to a car accident scene. Second, while police officers work in the background collecting evidence, Kutner talks into the camera communicating with the audience, not with the officer working on the case. Third, back in his office, Kutner walks parallel to legal assistants holding files. Fourth, a group of legal personnel discusses a case, Kutner continues addressing the audience, not involved in the resolution of the case. Fifth, in a medical facility, the medical personnel depicted in the background give the impression that they might be evaluating a victim’s injuries, Kutner continues addressing the audience. Sixth, at the same location, medical personnel assist an injured person, Kutner does not communicate with the victim or medical personnel. Seventh, in the background, we could see a scene of a courtroom where a judge, attorneys and clients are finding resolution for a case brought to court. Adam Kutner is not involved in the scene, he says that “he” will negotiate compensation. Yet, the main action happens behind his back. Eighth, in the background at the same location, a happy client shakes an

attorney's hand, symbolic of a favorable resolution. Kutner is not the attorney who had successfully represented a client. He is depicted in the foreground talking to the viewer. Ninth, the last image is a still photo showing his contact information as a presentation card (see figures 14a – 14i). Using Goffman's terms, attorney Kutner's *main involvement* according to this depiction is to act as a businessman in the commercial; the *side involvement* is his role as attorney.

The textual information in Adam Kutner's commercial describes him as an attorney who will take a case and be fully involved in every step of the process. He describes his legal services in first person, as if he were the person in charge at every step of the process. He calls himself, "an aggressive attorney fighting for you," describes that he will secure medical treatment for his clients, and that he will negotiate for his clients. He affirms, "When it comes to your case, I mean business, and the insurance companies know it." Yet, visually, he is not involved.

IMAGES FROM STORYBOARD



Figure 14a: Car accident scenario in the background. Attorney Adam Kutner walks on the street parallel to the scene.



Figure 14b: While he talks, he looks into the camera communicating with the audience, not with the officer working behind.



Figure 14c: Back in his office, Kutner walks parallel to legal assistants holding files.



Figure 14d: Back in his office, a group of legal personnel discusses a case, Kutner continues addressing the audience, not involved in the resolution of the case.



Figure 14e: Kutner is depicted in a medical facility. The medical personnel depicted in the background give the impression that they might be evaluating a victim's injuries.

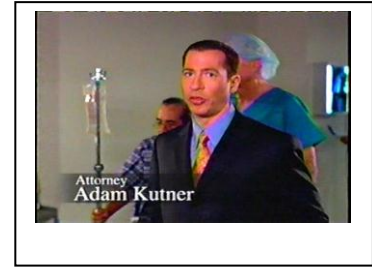


Figure 14f: Medical personnel assist a person. Kutner is not communicating with the victim or medical personnel, instead he addresses the audience.

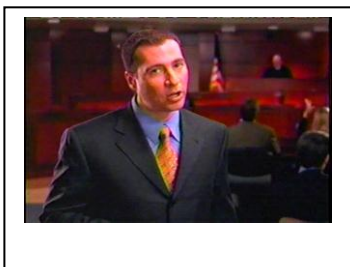


Figure 14g: In a Courtroom, a judge, attorneys and clients are finding resolution for a case brought to Court. Adam Kutner is not involved in the scene, he explains that "he" will negotiate compensation. Yet, the main action happens behind his back.



Figure 14h: In the background, a happy client shakes an attorney's hand, symbolic of a favorable resolution. Kutner is not the attorney who had successfully represented a client. He is depicted in the foreground.



Figure 14i: His contact information appears as a presentation card.

Advertisement 51: Rodney Okano – Body Language Misalignment

Rodney Okano wants to convey the impression of being an aggressive attorney working on behalf of a client. Yet, there seems to be a misalignment between the text and his mannerisms when he talks to the viewer. He uses a strong language when he talks about

IMAGES FROM STORYBOARD



Figure 15a: Tires screeching suggesting car accident.



Figure 15b: The attorney points a finger at the audience, a mannerism that seems to contradict his intention of offering courteous representation.



Figure 15c: When depicted next to a client, he seems cordial.



Figure 15d: Okano is depicted in a cordial relation shaking the hand of the client.



Figure 15e: He is portrayed working with a legal assistant.



Figure 15f: Standing with his hands on his waist, he addressed the audience. This body language is confident and mildly threatening.



Figure 15g: He may want to convey that he is an aggressive attorney, who will defend a client’s rights. But pointing at the camera has a different effect, it means he is threatening the viewer, therefore, a prospective client.



Figure 15h: The sound of a gavel is symbolic for justice that along with his mannerisms extends tension.



Figure 15i: Logo that educates the viewer to recognize the law firm.

the insurance companies, e.g., “I’ll enforce your rights, and get you the compensation you deserve”, and softens the text when talking to the viewer, e.g., “You receive prompt and courteous representation... We’re ready to help you...” Yet, his body language and attitude conflicts with the text. Speaking from a medium shot and talking directly into the camera, he points a finger at the viewer twice, and talks to the audience with his arms on his waist, which may be perceived as a threatening portrayal. He may be using this body language in reference to his attitude toward insurance companies, but he is addressing the viewer, talking to those prospective clients he attempts to target (see figures 15a – 15i).

(e) Client as Child-Like, Patriarchal Attorney, Condescending View

In these depictions, I put together those representations where the attorney acts like a father figure treating the client like a child in a condescending manner. The attorney is seen as an authoritative figure, and by comparison, without a lawyer the client seems defenseless, child-like, or regretful. Some attorneys express that it is not important

for the client to know the law, the attorney knows and that is all that matters. This is not beneficial for a client. Keeping people uninformed protects the lawyer's business but it is not democratic.

Advertisement 11: Glen Lerner – Client as Child-Like

Attorney Glen Lerner plays with fantasy and digitally recreated images. In a playful manner, he answers a phone that rings in the middle of the desert. He is seen in a long shot, behind a phone placed at a distance in a close up in front of him. As the phone rings, he smiles as he takes a phone simulating one of the characters in the film *Fantastic Four* elongated his arm out of proportion to reach for the phone (see figures 16a – 16c). He uses magic and is not afraid of being playful to call attention. His tone of voice is relaxed, amicable, and funny. This simplistic portrayal reflects that he considers clients as child-like people who will prefer to call his office based on his playful and childish portrayals. He targets prospective clients who may contact his office wanting to feel relaxed, with no pressures, ready to laugh a little, not taking their problems seriously. Overall, in this commercial he does not intend to make an impact by his legal knowledge, he wants to become familiar, make the audience remember his name, become part of the jargon. He portrays an easy-going character that relieves the tension in clients.

The use of fantasy and funny portrayals are similar to advertisements of products that promise magical results. In their study of the use of magic in commercials, Leiss, Kline and Jhally (1986) describe the use of magic solutions in commercials as rhetorical device that “manipulates” (pp.22-23) audiences. Attorney Glen Lerner asks the audience, “How long does it take for someone to answer the phone...?” By reaching the phone

from a distance and “magically” ending in a close up, he recreates the fantasy that he could react immediately to a clients’ phone call.

IMAGES FROM STORYBOARD



Figure 16a: In the middle of the desert with an Old Western music in the background, attorney Glen Lerner waits to answer a phone call.



Figure 16b: With the speed of light he reaches for the phone to answer a phone call from a client.



Figure 16c: Ready to take a call from a client, he responds in person.

Advertisement 12: Ed Bernstein – Authoritative Father Figure, Regretful Client

Like a father who tells his children, “See? I told you...” attorney Ed Bernstein presents a similar situation to his Advertisement #3 (see pp. 102-3) where an older couple talk about their terrible experience after a car accident. They did not call *him* and now they face the consequences. The couple is seen in a kitchen, sitting by a table while addressing the audience. A close up of attorney Ed Bernstein follows their testimony as if warning the audience, “Don’t let this happen to you. Like them, if you do not call me you will regret it. I know..., you don’t” (see figures 17a – 17c).

The viewer is asked to empathize with the problem by entering the couple’s kitchen, a place that is shared by those in close proximity to the family. Bernstein appears

as the authoritative father who could have resolved the problems of those who are less knowledgeable than him. He advises, supervises, comes up with solutions, but remains removed from the scene. Bernstein's tone of voice is emotionless, like a lion that observes from a distance but can control the situation if he is asked to act. Leiss, Kline, and Jhally (1986) explain that "advertising plays in our fears, insecurities, and anxieties, always reminding us that our lives could be better if only we were to buy this or that" (p.27). Attorney Bernstein seems to extend this concept to add anxiety about bettering off the lives of his prospective clients if only they were to contact his office. Therefore, this portrayal of dissatisfaction reaches the client who anticipates failure and tries to avoid it.

The only word of consolation that Bernstein has for this couple after their accident is, "Call Ed Bernstein and associates today." He does not offer advice, words or sympathy, or makes any attempt to offer relief, just call...or...like the couple depicted in this commercial, you will regret it. By saying "...but we should have called Ed Bernstein," the couple present themselves after an action that had negative consequences. In this manner, they are telling the viewer that they recognized they made a mistake and rescue themselves from remaining in the dark, recognizing that what they learned from the experience as the intelligent solution is to contact Bernstein.

By portraying the mistake first, they typify themselves negatively in the eyes of the viewer, the viewer identifies with the idea of not doing what they have done. Hewitt (2007) explains that disclaimers are "verbal devices people employ when they want to ward off the negative implications of an...act" (p.159). Usually a disclaimer is an explanation that a person may use to say, for example, "I'm not prejudiced, because some of my best friends are Jews, but..." (Hewitt 2007:159). The person anticipates that s/he

will be evaluated negatively and provides an explanation that redeems his/her character in the eyes of the other person who is listening or watching. Similarly, the couple portrayed in this example, compensate their failure. By mentioning the solution, they redeem themselves as if learning from the experience.

IMAGES FROM STORYBOARD



Figure 17a, 17b, 17c: The commercial starts with a testimony of a couple who describe their problems when they were injured in an accident. They regret not calling Bernstein. Bernstein is seen in the last shot giving his contact information.

Advertisement 16: Dallas Horton – Client as Child-Like, Patriarchal, Condescending

Attorney Dallas Horton introduces himself from a medium shot in his office, with frames of family portraits and diplomas in the background (see figure 18). His tone of voice is calm, pleasant, and soft, almost sedated. He says, "...Your job as a client is to tell the lawyer everything, but if you don't know what's important, the lawyer's job is to listen to everything you have to say and to determine what is important..." This introduction has a soothing effect on the viewer. He is placing all the power in the hands of the attorney to decide on behalf of a client, the client is so useless that he or she cannot decide, or do not know what is important. It is the attorney's job to determine what is important according to Horton. The ones who hold the key to all knowledge are the attorneys. This type of

attitude is consistent with Reed's (1972) study on attorney-client retention. He conducted a study in 1966-7 in Florida asking attorneys about why they would refuse or retain a case. One indicator of the lawyer's control is how he perceives his client. If he perceives him as wholly dependent, the power of decision and future action is likely to be with the lawyer. In response to the question, "What part does the client play in the solution of his problem?" lawyers generally indicated that the client's role is relatively impotent in generating solutions or, for that matter, anything besides consent. In Reed's study 52% of attorneys expressed that clients most likely agree to give consent to the attorney to act on his/her behalf, 18% explained that clients "set the limits for what can be done" and 30% of attorneys thought attorneys were fully in charge. No lawyer thought his clients "decided how to solve the problem" or "told him what action to take" (Reed 1972:429). This is an indication that most lawyers perceive themselves as fully in control on directing their client's actions consistent with the portrayal of attorney Horton in his commercials.

IMAGES FROM STORYBOARD



Figure 18: In his office, surrounded by diplomas, and family portraits, attorney Horton says, that the client's job is "to tell the lawyer everything" and the "lawyer's job is to listen to everything [a client]...ha[s] to say and determine what is important."

Horton reduces people to the age when they had to report to their parents and tell them “everything.” The client is at such loss that in their confusion they would not even know what is important. Horton promises to behave like the father-figure who listens to a child coming from school upset after a fight. Horton would listen and determine what is important. He calls that respect; yet, this depiction of a client reporting to the attorney unaware of everything shows a different perception. He does not see a client with respect, but in a condescending manner.

Advertisement 22: Dallas Horton – Client (and Viewer) as Child-Like, Condescending

In this advertisement, attorney Dallas Horton takes his viewers by the hand on a school tour with a stop on his conference room. The setting is his office. The camera is placed at one end of his conference room table, and at the other end the viewer sees attorney Horton in a medium shot against a background displaying shelves with books that occupy the back and side walls. Attorney Horton leans against one chair explaining that what the viewer sees in front of him/her is “[his] conference room table.” He points his finger to his left and right showing the places where he sits to holds meetings with insurance companies. To make sure the child-like client is not afraid of the “bad guys” –e.g., insurance companies—he says he takes them to court and allows a jury of “eight people to tell...what is reasonable...” This might be seen as a representation of a protective and paternal personality, but it could be interpreted negatively as treating clients in a condescending manner, seeing them as kids who need to be taken by the hand (see figures 19a – 19f).

IMAGES FROM STORYBOARD



Figures 19a, 19b, 19c: Attorney Dallas Horton explains that what the viewer sees is his conference room table where he sits with other attorneys and insurance company representatives.



Figures 19d, 19e, 19f: Horton explains that when he cannot reach an agreement with insurance companies, he takes them to Court.

Advertisement 61: Dallas Horton – Condescending View, Patriarchal

Following the same theme as in previous commercials, attorney Dallas Horton is portrayed in a close up inside a box, against a background of shelves with books representative of legal expertise. The area around the box is tinted blue with computer graphics in the lower third¹¹ (L/3) adding and/or dissolving information as he speaks, displaying contact information, such as phone number, personal injury expertise, and

¹¹ The lower third is the bottom area of the frame where computer graphics with written information is added in post production.

availability in Spanish. According to Medoff and Tanquary (1998) “For a talking head, the face is the center of interest and therefore the main element” (p.136). Although, he is the dominant element in the frame, his close up is relatively small in comparison to the information surrounding the box (see figure 20).

I consider his dialogue representative of my claim that attorney advertisements perpetuate a hierarchical position. Looking directly into the camera, he says, “You may not understand everything the police and the insurance companies are telling you, and that’s OK. That’s what I’m here for.” This message, although soothing for an accident victim, asserts that a client does not need—to have the right—to be involved, fully aware, and capable of being at the center of any decisions concerning his or her defense.

IMAGE FROM STORYBOARD



Figure 20: C.U. of attorney G. Dallas Horton speaking to the camera from a box within the frame. There is a blue background outside the box with CG in the L/3 adding and/or dissolving information as he speaks: phone number, availability in Spanish, personal injury expertise.

Advertisement 36: Veronica Valentine – Client (and Viewer) as Child-Like

Attorney Veronica Valentine talks to the audience using a voice over and several testimonies. The advertisement conveys the message that after contacting attorney

Valentine everything could turn out right, but does not explain how she manages to achieve results. There is no support from legal rhetoric, no mentioning of experience, and each case is presented in an overly simplistic manner. Her depictions of people who are happy might seem too childish and out of reality. Moreover, the portrayals shown seem to conglomerate reactions into a common assumption that all people would behave in the same manner. According to her portrayals, all clients (e.g., immigration, work-related

IMAGES FROM STORYBOARD

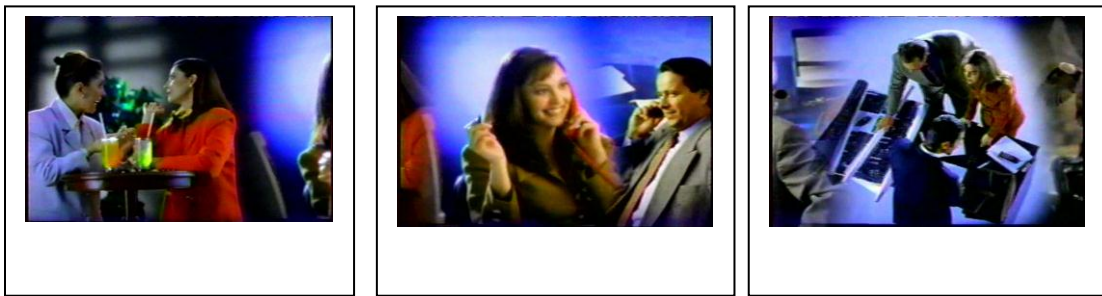


Figure 21a, 21b, 21c: These people portray the part of clients who spread the word about attorney Veronica Valentine.



Figure 21d: This woman portrays a client. A voice over asks her about her immigration case. On the phone she says, “Yes we bought a house”

Figure 21e: A voice over asks this man about car or work-related accidents. On the phone he says, “Yes, everything is OK.”

Figure 21f: A voice over asks about divorce cases. On the phone, this woman responds, “Very well, I feel free.”

injury, and divorce cases) seem happy. When viewers position themselves into the role of the client who seeks attorney advice, they may momentarily see themselves in such situation. Hewitt (2007) explains, "...although people generally make due allowance for the acknowledged fact that no two people experience a situation in exactly the same way because they occupy different positions in it, there is still a basic assumption of shared perspectives and experiences" (p.147). Reducing experiences to similar outcomes informs the viewer of unrealistic result expectations.

Actors portraying the roles of happy clients perform different situations. First, the viewer sees medium shot depictions of happy clients while a voice over informs that people "spread the word about Veronica Valentine" (in Spanish: "Ahora ya todos saben que la abogada..."). Second, a medium shot of a family with a woman on the phone talking about the outcome of her immigration case, saying, "Yes, we bought a house" (in Spanish: "Sí, ya compramos casa"). Third, a medium shot of a man with his arm on a cast portraying an accident victim says on the phone, "Yes, everything is OK" (in Spanish: Sí, todo bien). Fourth, a woman talks on the phone representative of a divorce case, saying, "Very well, I feel free" (in Spanish: "Muy bien me siento liberada") (see figures 21a – 21f).

(f) *Abusive, Demeaning, or Mistreating the Client or Viewer*

Some lawyers go too far in their portrayals as strong, and aggressive attorneys. When portraying aggressiveness some attorneys may present themselves abusing their clients. Funny portrayals may also fall in this category. Attorneys may portray themselves kicking or hitting their clients trying to present the idea that their clients are being dumb or weak, this comes back in a negative manner. This may be seen as disrespectful

portrayals that reflect the attorney's lack of respect and abusive mannerism toward a client. The use of nonsensical humor and incongruity in advertisement is used to "attract attention and generate general awareness" (Courtney and Whipple 1984:130).

Advertisement 8: Anthony DeLuca – Demeaning

This advertisement starts with an extreme close up of a man with a dumb and confused expression. As the camera pulls out to a medium shot, we see that he is sitting on a red wagon like a child. Another man pulls him out of the frame, he is incapable of moving and does not or cannot react as he is being pulled. The attorney is seen after this portrayal; he makes a fist and leans over his desk in a threatening violent manner. The attorney, the "knowledgeable" figure cannot understand why people go to talk to other attorneys. He makes the analogy that to come to his office is the smart thing to do; to go elsewhere is what nonsensical people do. He reduces the client by visually representing him in a stupor state. The attorney's tone of voice seems to be irritated with people who do not make the "intelligent" choice of coming to his office (see figures 22a – 22h).

DeLuca's intention is to inform the viewer that he takes care of his clients in a more efficient manner in comparison to other attorneys. He says he does not understand that people contact other attorneys, paying the same fees they would pay at his office, but end up doing all the paperwork a law firm is supposed to fill out for the client. He informs the viewer that at his law firm, they take care of all those steps. Attorney DeLuca places himself in a powerful position, mistreating the misinformed client to make his point. He does not start at the same level with the client, or prospective client, he first reduces a person's confidence to apply judgment by himself and brings his law firm as the only possible "intelligent" alternative.

IMAGES FROM STORYBOARD



Figure 22a: The first graphic lets the viewer know that this is a law firm with expertise in bankruptcy.



Figure 22b: An extreme close-up of a man looking dumb and confused.

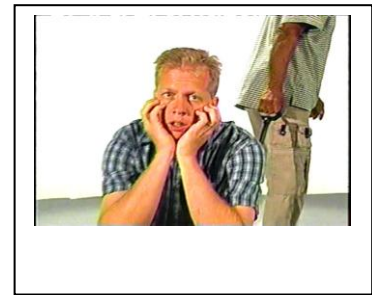


Figure 22c: Unable to move, the man is pulled by another person.



Figure 22d: Here the man, who represents people who contact other law firms, is sitting on a red wagon dressed like a child.



Figure 22e: DeLuca's opening statement is that he does not understand why people go to his competitors.



Figure 22f: His mannerisms are aggressive. As he talks he makes a fist and leans forward on his desk.



Figure 22g, 22h: DeLuca’s intentions may be to inform the public that at his law firm they would not need to do all their paperwork. He explains that he takes care of his clients in a more efficient manner than other attorneys. However, his mannerisms and irritated tone of voice conveys a different message. The choice of his phone number that includes the word “hope” symbolizes his concern and that he sees his job as providing hope for his clients.

Advertisement 20: Glen Lerner – Abusive

In this commercial, Attorney Glen Lerner is depicted in a long shot walking as a big giant across the Las Vegas Strip. With city lights reflecting from casinos in the background, he talks to the viewer offering his help if they suffer a car accident. Computer graphics with his contact information fade in and out in the lower third of the screen. As he walks while talking to the viewer, his giant shoe (the same size of a car) is about to step on a person standing by his car. The little man stands by his door lifting his head and arm to call the giant’s attention, he yells, “Hey!” Lerner, looks down apologetically and says, “Sorry” (see figures 23d – 23g).

The advertisement targets people hurt in a car accident. However, the only danger that we see in this commercial is the attorney himself who is about to step on a person. He apologizes with a smile on his face and continues walking. As such, the threat is not other drivers, or other people, the threat is the attorney who does not watch his steps. The

theme in this commercial is to think “big,” therefore the depiction of him as a giant walking loose in Las Vegas Blvd.

Advertisement 26: Glen Lerner - Abusive

Attorney Glen Lerner uses magic and an unreal situation where a big phone falls on four people who contacted the insurance company without consulting with an attorney. His intention may be to create a funny depiction or absurd situation. But the manner in which the phone falls on people is violent. This is done in a very subtle and unrealistic way, like the previous example where a giant attorney almost steps on a person, here a big phone falls and crushes four people (see figures 24a – 24f). Although this commercial uses fantasy, it is portraying a subtle aggression.

IMAGES FROM STORYBOARD



Figure 24a, 24b, 24c: The advertisement starts with attorney Glen Lerner standing next to four people. They represent people who call the insurance company after a car accident without consulting with an attorney. A big phone falls on them as he explains that they will be put on hold.



Figure 24d, 24e, 24f: Attorney Glen Lerner advises people to hang up and call his office instead. He turns around and kicks the phone. Like magic, people appear once again smiling to the camera.

The commercial starts with a long shot with attorney Glen Lerner standing next to four people. A giant phone falls on them completely crushing them out of view. Lerner stands next to the giant phone explaining that insurance companies “put [people] on hold” when they call to make a claim. From a close up, he smiles at the camera and invites the viewer to call his office. Back in a long shot, he gets rid of the phone by kicking it. Like magic, people are seen again in their original size.

(h) *Celebrity Status*

Celebrities are frequently used to sell products. They convey an image already well-known in society and people attribute their qualities extending them to products advertised.

Advertisement 20: Glen Lerner

Attorney Glen Lerner’s advertisement, where he portrays himself as a giant walking in the Las Vegas Strip, could be used again as an example of celebrity status. Lerner’s commercials have the ingredients of the celebrity status: a slogan that identifies him with a nickname, a catchy song that repeats his nickname and phone number, a series of

commercials that change from time to time so that the viewer does not get tired of watching the same, an entertaining story –removed from any kind of legal content—that portrays the attorney in funny situations, and, in this example, a sophisticated end in the commercial reminiscent of Film Noir cinema. By investing more in his advertising campaign, attorney Glen Lerner has transformed his role in the media to a celebrity status. His commercials that run frequently in local TV stations and his catchy slogans are easily identified by Las Vegas residents.

In this depiction, we see a long shot of two men sitting in a café by the Strip. They see attorney Lerner through the window walking as a giant. Not afraid of his image, but curious about who he is, one man asks the other. The other recognizes Lerner immediately and says, “Only one guy I know thinks that big.” At the end of the commercial, the viewer sees an image reminiscent of Film Noir cinema. The shape of Glen Lerner appears surrounded by fog dissolving in the middle of the night leaving behind his name and number in the middle of a cloudy frame (see figures 23a – 23l). A song, especially written to identify Lerner with the nickname “Heavy Hitter” reminds the viewer of his slogan and phone number. Even if the viewer is not watching television, s/he could identify that Glen Lerner’s commercial is on the air.

Glen Lerner’s image has become a commercial product that he sells to viewers. More than selling his legal expertise, Lerner invests in changing his image constantly to keep audience’s attention. He has learned an important rule in advertisement: once the name becomes familiar, people think they know it, and in case of an accident, that familiar name crosses the viewer’s mind. Same as consumers would respond to a familiar brand of detergent or soda, viewers’ impulse is to make the mental association in a linear

fashion: accident → need an attorney → (familiar) name. Knowing the name does not guarantee that an injured person will call his office, but it is a step forward that places his law firm in advantage in comparison to those who remain unknown.

IMAGES FROM STORYBOARD

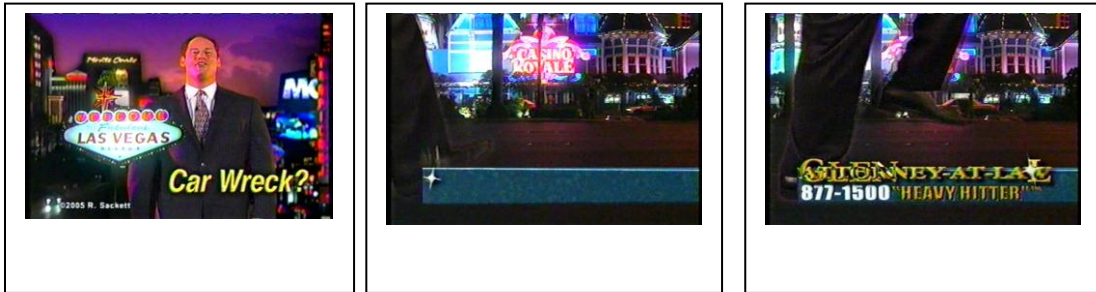


Figure 23a, 23b, 23c: Glen Lerner’s advertisement starts with his portrayal as a giant with Las Vegas Strip in the background. Making his graphics symbolize his nickname “Heavy Hitter” his logo in the L/3 dissolves with crashing fonts hitting each other.



Figure 23d, 23e, 23f: His slogan “get big help” coincides with his big depiction. The giant attorney walks in Las Vegas Strip and almost steps on a man standing by his car, which contradicts his legal expertise: he helps people hurt in accident.



Figure 23g, 23h, 23i: With a smile, he apologizes and continues talking to the audience. Like a showman in Las Vegas he extends his arms to say that at his office “They think as big as Las Vegas”. Two men sitting in a café see the giant attorney walking by the Strip. One asked the other “Who was that?” With familiarity, the other man answers, “Only one guy I know thinks that big.”



Figure 23j, 23k, 23l: At the end of the commercial, the viewer sees an image reminiscent of Film Noir cinema. The shape of Glen Lerner appears surrounded by fog dissolving in the middle of the night leaving behind his name and number in the middle of a cloudy frame. A song, especially written for the Heavy Hitter, reminds the viewer of his slogan and phone number. Even if the viewer is not watching television, s/he could identify that Glen Lerner’s commercial is on the air.

Advertisement 25: Glen Lerner

In this advertisement, Attorney Glen Lerner uses magic to fix a car. His theme in this commercial is that his law firm solves problems fast, and makes big problems small.

Standing in front of a crashed blue car, attorney Glen Lerner smiles and turns around to lift the car above his head. As he finishes turning, the blue car vanishes and Lerner ends

up holding a small toy car in his hands (see figures 15a – 25f). This commercial portrays a funny situation where the attorney represents the speed at which his law firm could resolve a problem, as he says, “mak[ing] big problems small.”

IMAGES FROM STORYBOARD



Figure 25a, 25b, 25c: Similar to his previous advertisement #20, this ad starts with attorney Glen Lerner talking to the camera. He stands by a blue damaged car hit in an accident. He turns around lifting the car with both arms.



Figure 25d, 25e, 25f: With a twist of his arms the car is reduced in his hands to a little toy. He smiles and says, “I make big problems small”. The big problems are those the overwhelmed client may be facing, but for this strong and larger-than-life figure, the solution takes one brief movement of his arms. The commercial ends with his nickname and phone number in the same foggy background used in commercial #20. The music is the same song used in previous commercials.

The average viewer would understand that this commercial is presented to call attention, and could not be taken seriously. As such, Lerner's intention is not to compete based on his legal expertise, seriousness, commitment to assist or protect, or by reducing fees as other lawyers claim. He becomes the magical character who with the touch of a hand resolves a problem. His strategy is not to appeal to the viewer's intellect or trust, his strategy is to become a celebrity. The song at the end of this commercial and the image reminiscent of Film Noir are the same as the previous advertisement #20, which by now the viewer could easily recognize and identify by name.

Advertisement 60: Roni Deutch

Attorney Roni Deutch targets viewers who owe taxes to the IRS. This is her area of expertise. This advertisement strategy is an example of a presentation that achieves a celebrity status. When searching for more information regarding her legal practice, I found she has offices all across the U.S. with three law firms in Las Vegas. There is little chance a person might be personally attended by her; what she sells is her name. In this advertisement, the viewer sees two images with written information explaining her services for people who owe money to the IRS. A disclaimer written in small fonts in the lower third of the screen explains that, "The services advertised may be performed by other lawyers other than Ms. Deutch" and other exclusions (see figures 26a, 26b). A message written on her website called "A Message from Roni Deutch" contains the following:

Hi, I'm Roni Deutch and I own the largest tax resolution law firm in the United States. For over 18 years, millions of Americans have seen or heard my television, radio, and internet advertisements. I have a 51% name recognition rate for people 18-65 years old. That means over half of all people in the United States know the name Roni Deutch.

My television and radio advertisements air nationally every day. As the advertisements indicate, my law firm provides legal services and real solutions to people who owe the IRS. Right now over 40 million people owe the IRS and need my help. I expect that number to significantly increase due to the horrible economic crisis Americans are facing. As you will see, my advertisements are direct response driven and have been per inquiry favorites for hundreds of television and radio stations throughout the United States.

I also represent the Hispanic community and have per inquiry relationships with some of the largest Spanish television and radio stations. I am also a featured tax expert on many national television networks, regularly appearing on CNN, CNBC and FOX Business.

You can even see me on the Today Show during tax season. (Deutch 2010).

IMAGES FROM STORYBOARD



Figure 26a, 26b: The disclaimer in the lower third says, This LAWYER ADVERTISEMENT for services is offered by the Law Offices of Roni Lynn Deutch, 4875 -- Ave. N. Highlands CA, 95660 (800) 384-7257. Our attorneys are licensed by California, Arizona, Wisconsin, or the Washington D.C. bar and may practice before the Internal Revenue Service in all 50 states. The services...advertised may be performed by lawyers other than Ms. Deutch. No representation is made but the quality of the services to be performed is greater than the quality of services performed by others. Testimonials or endorsements do not constitute a guarantee, warranty, or prediction regarding the outcome of a particular...

Although not physically present in her advertisement, attorney Roni Deutch has used other commercials throughout the years that make her a recognizable figure in Las Vegas. The emphasis in her commercial ad is placed on her ability and experience to resolve IRS disputes, while the emphasis in her online presentation remarks her ability to be a recognizable figure. Her online presentation suggests that attorneys are more likely to be successful not for their legal competence but for their ability to be well-known through aggressive advertisement campaigns.

Conclusion

When attorneys present themselves on television, they portray an image in front of viewers that will inform them of who they are, and might help anticipate the interactions between attorney and client. According to Freedman (1977) there are two kinds of rules of legal ethics. The first relate to the overall representation of the legal system, and the second relate to the “conduct of attorneys” (p.67). The way attorneys depict themselves on television affects the legal profession as a whole, and informs the public of the overall process, seriousness of the business, and possible interactions. As explained in this chapter, the overall projected meaning of an advertisement is explained through media conventions, symbols used, image of the attorney, and depictions of others. These constructions are interpreted by viewers that might be in need of legal representation. The ultimate function of these commercials and the reason for the U.S. Court to allow law firm advertisement is the concern for people because they may not be appropriately informed of their legal rights and that they could access the law for their benefit. When attorneys advertise they represent these ultimate goals, and may need to center their campaigns in the benefits for the public. Freedman (1977) explained that forbidding

“undignified” (p. 74) portrayals may not be possible, but it is important to consider the following Ethical Consideration, “lawyers should strive to provide information to the public in ways that comport with the dignity of the profession and that do not tend to demean the administration of justice” (Freedman 1977:74).

CHAPTER 6

GENDER REPRESENTATIONS

This chapter discusses gender roles and the unequal portrayal of men and women in attorney advertisements. I discuss the theoretical basis for the analysis by focusing on feminist theories critique of gender inequality, and media studies analysis of gender portrayals in the media. I use examples of attorney ads that replicate gender stereotypes and/or portray women in disadvantageous positions in comparison to men.

Representations of males and females in the media play an important role in informing the public about gender identities. Different approaches, both psychological and sociological, pay attention to media representations as instrumental for people's gender development. According to Macdonald (1995) "Psychology considers gender, our sense of being male or female, to be one of the primary categories through which we evolve socially appropriate behavior patterns, develop our expectations about our lives, and interpret our experiences" (p.16). The media, as a socialization tool, inform us about gender roles and statuses. The approach that tries to address this dichotomy critically is feminist theory.

Seeking to understand and change the disadvantageous status of women in relation to men, feminist theory identifies the "areas of oppression arising from the Western philosophical focus on dualistic thought" (Cirksena and Cuklanz 1992:18; see also Elshtain 1981, Jaggar 1983, Nye 1988, Okin 1979, Wilshire 1986). Feminists have observed that dual categories –e.g. rational/emotional – denote certain values that prevail in our society and are used to describe and compare male and female behaviors and attitudes. In these comparisons, the qualities esteemed more important or valuable are

attributed to males, while the less important are associated with females. The language carries a cultural legacy that stratifies ideologies, perceptions, thoughts and impulses, definitions, and behavioral boundaries separated as dual categories overriding the gaps in between. As Cirksena and Cuklanz (1992) explain:

The primary dualisms of Western thought that feminists have identified as particularly instrumental in legitimizing women's subordination are those between reason and emotion, public and private, nature and culture, subject and object, and mind and body. Each of these pairs of concepts has served to conceptually relegate women to peripheral, secondary, or inferior status. (P.20)

One dimension of this dichotomy is the division between reason and emotion.

Depictions in attorney advertisements play with existing dualism, e.g. knowledgeable vs. unaware, rational vs. irrational, calm vs. anxious, aggressive or competitive vs. timid, sympathetic vs. withdrawn. These polar attributes exemplify the position of attorneys in comparison to clients, where lawyers portray themselves in a higher status in comparison to their clients.

However, this examination of the depictions across male and female attorneys, male and female clients, or male and female assistants bring an additional layer on top of the duality that is already indicative of hierarchy. In comparison with males, female attorneys are less assertive and knowledgeable, female clients are less rational, and female assistants are more likely to draw attention to their bodies. Depictions of females are worth examining because these influence how women are treated by others.

According to Berger (1972) "...how a woman appears to a man can determine how she will be treated" (p.46).

Female representations are less frequent than male ones in attorney ads. The number of female vs. male attorneys in Las Vegas is reflected in advertisements. What traditional media teach people about male and female identities is that “women and ethnic minorities are not as capable, effective, or interesting as White males” (Parenti 1992:2). Traditional media representations of women have consistently displayed stereotypes unfavorable to women. According to Van Zoonen (1994) “television symbolically annihilates women....it symbolically denigrates them by portraying them as incompetent, inferior and always subservient to men” (p.16). Attorneys depicted in television commercials need to portray themselves as competent attorneys regardless of their gender; as such, female representations need to move away from stereotypical representations and portray professionalism.

Traditional Media Stereotypes

Feminist theorists point out to the separation of mind and body, where the potential link between the efficient use of mind relates to men and the aesthetic (media constructed) stereotypes of the body relate to women. This perception is crafted in traditional media throughout years of artistic expressions that associate “intellectual potential” with masculine qualities and body or physical exploitation with female potential. Cirksena and Cuklanz (1992) assert, “Male artists working in painting, film, literature, advertising, and other creative pursuits were able to define the ideal feminine body through their artistic work, to the extent that Western culture was (and still is) saturated with unattainable ideals of feminine beauty” (p. 34; see also Berger 1972; and Suleiman 1986). The distinction between male and female potentials shaped by media representations convey the message that ideals of physical beauty, sexuality, and

femininity are symbolic representations of women's preferred status; while the ideals of strength, power, authority and rationality are symbolic of male's achieved status.

According to Cirksena and Cuklanz 1992 "...images of the ideal female body reproduced in advertising, film, television, and other texts served to create a conception of the female body against which real people measured themselves and others" (p. 35). It is important to remark that these *ideals* are media constructions, not reflections of society. According to Berger (1972) men and women are depicted according to different conventions. "A man's presence is dependent upon the promise of power which he embodies...[suggesting] what he is capable of doing to you or for you" (p. 45-6). Berger (1972) contrasts the depiction of women which centers on the body and explains what these depictions suggest to men. He explains, "Presence for a woman is so intrinsic to her person that men tend to think of it as an almost physical emanation, a kind of heat or smell or aura" (p. 46). Adding to these descriptions, Barthel (1988) affirms, "many feminist writers have argued that how a woman looks largely determines how other people react to her" (p. 9) which explains the importance of associating appearance with products or services commercialized in the media. The product or service creates an extension of its appearance by association with the person who displays it.

When analyzing media representations of males, Macnamara (2006) explained that expectations about males in the media affect male identities similarly. He stated that in our society many men hold "positions of power and authority, but many do not" (p. 2). Male identities are also challenged by media portrayals that fabricate the ideal prototype of the preferred male. The challenges for males and females differ, but are challenges nevertheless, and these expectations affect males and females. Barthes (1988) explains

that in advertisements, “a man’s appearance communicates his *power* to affect others. A woman’s appearance, by contrast, communicates her *presence*, how she takes herself” (p.88). With the same emphasis that feminist theorists bring attention to the influence of these media constructions on women, and ultimately how males perceive women, Macnamara (2006) explains that what happens to men affects and impact “on the women who raise them, care about them, love them, marry them, create families with them, and dwell and work alongside them” (p. 2). Media portrayals affect identities either way: perceptions of self and expectations from others.

All images we see in the media are texts produced in our society that reflect our culture. As Berger (1972) explains, “An image is a sight which has been recreated or reproduced” (p. 9) Images of attorney advertisements represent lawyers in their activities and reproduce the stereotypes, interactions, and hierarchies that persist in our society. One of the most pervasive cultural practices in our society is the use of the female body in commercial advertisements to frame and sell products. According to Probyn (1992) “women are invited, or told, to form their bodies in order to attract (men’s) attention – to *dare* to be sexy...” (p. 85). Attorney advertisements do not escape these practices, in the examples below, legal assistants call attention to their bodies (see advertisements #34 and #69) replicating a common strategy that sells products.

Advertising and Gender

Advertising serves the purpose of selling and making a profit and although some ads might be aesthetically appealing, seemingly making a contribution by informing the public of their legal opportunities, commercial ads are not attempting to explain, but to

engage an audience, which explains why attorney ads replicate the formulas used to sell commercial products, e.g., the use of the female body to frame a product.

The desire to consume and acquire products is created in society. Bauman (1997) warns about the effects of unreasonable consumption that borders criminal activity. The strong desire to consume, when not being able to afford a desired lifestyle debilitates the human spirit. He said, “Market seduction is, simultaneously, the great equalizer and the great divider” (p. 40). It is an equalizer because it brings comfort and prosperity by enabling the acquisition of products, but also a divider because not everybody can satisfy their desires. “Lavish consumption, they are told and shown, is the sign of success and a highway leading straight to public applause and fame. They also learn that possessing and consuming certain objects and practicing certain lifestyles is the necessary condition of happiness; perhaps even of human dignity” (Bauman 1997:40). Some attorney commercials use examples of people who face bankruptcy and are overwhelmed by debt. The depictions cover a variety of situations. In advertisement #54, notice that the woman portrayed in the example does not seem concern with her debt, but annoyed that a creditor is “harassing” her, refusing to identify a problem with her patterns of consumption. Attorneys insist in making a case that contacting them is a solution to the problem, yet, the main problem is the process that led that person to bankruptcy. Declaring bankruptcy is an immediate solution, although reflecting on patterns of consumption is also a necessary step. In reference to advertisements that seem to talk to the viewer in need for solutions, Barthel (1988) explains “When it does deal with serious problems, such as debilitating illness or the death of a breadwinner, it always has the ready solution in a wonder medicine or insurance policy...But even public service

advertising cannot solve social issues by reducing them to personal problems” (p. 6).

Indeed, the vicious circle of consumption cannot be reduced to declaring bankruptcy. In advertisement #54, the woman who thanks Haines and Krieger for “stopping the harassment” may have put a bandage on her immediate debt, but the problem of obsessive consumption is still unresolved.

Analyzing depictions of women, I found Goffman’s analysis in *Gender Advertisements* (1979) especially enlightening. In his book, Goffman argues that women are exploited in advertisements and raises the idea of the objectification of women with the intention of selling products. His primary concern is the hidden messages that commercial advertisements entail. As he notes, “what will mostly be shown and discussed is advertisers’ views of how women can be profitably pictured” (p. 25).

Goffman (1979) explains that in every culture, members display behaviors that establish the differentiation in rank or social identity of their members. Gender differentiation is also acquired in society and is different across cultures. “Gender is assumed to be an extension of our animal natures, and just as animals express their sex, so does man: innate elements are said to account for the behavior in both cases” (p. 3). How men and women relate to each other in social situations –e.g., expressing intent or feelings—is a learned experience.

Examining commercial advertisement from magazines and newspapers, Goffman sorted out a number of pictures, arranging those according to themes. He found several occasions in which women are subordinated to men and children, and seem to be exploited as sexual objects. In attorney advertisements, I find depictions of similar

situations but not across males and females, but across attorney/client representations. In my analysis of attorney ads, I found the following (see Table 8).

TABLE 8. Comparing Gender Representations in Attorney Advertisements with Goffman's Analysis

Goffman's Analysis	Attorney Advertisements
Men are taller than women. Height is used to portray superiority.	In attorney commercials, some attorneys use their height to convey higher status, e.g. Glen Lerner chose to be a giant and he frequently emphasizes being "big" and achieving "big results."
Men appear in executive roles, and women in assisting roles. Men are doctors, and women nurses; men lead riding horses, and women follow; men explain and give advice and women listen.	In attorney commercials, this pattern of subordination persists across males and females, where the attorney is seen in executive roles and clients in a subordinate role. However, female attorneys do not depict themselves with subordinate assistants, whereas male attorneys portray female and male subordinates.
Women are frequently portrayed as childlike, posing in a playful manner, while men remain in a straight position that reflects maturity. When men and women play together, women are seen as fearful, while men appear to be stronger. This type of representation, according to Goffman, may have a more solemn implication, "the suggestion of what he could do if he got serious about it" (p. 52).	In attorney advertisements, clients are depicted in different situations that range from stressed out to panicking. Attorneys are either portrayed or implied in the text as the solution to the client's problems.
Women are shown mentally drifting. Her mind seems to be lost, while he appears to be firmly concerned with reality.	In attorney advertisements, clients are depicted as unaware and incapable; attorneys are depicted as the solution to all problems.
Women are pictured in situations of horror and fear. Women seem to be afraid, desperate, or helpless.	In attorney advertisements, these types of portrayals are frequent in clients, regardless of their gender.
Other social situations portrayed in commercial advertisements, are not necessarily related to gender but present stereotypes as well. The persistence of the nuclear family as the basic unit display images of happy families including a father, mother, and children.	Attorneys display family portraits and or have members of their families in their commercials to convey the image of protection and stability of the family unit.

Similarly, Courtney and Whipple (1984) describe negative stereotypes of women in television advertisements such as, “fulfilling usual domestic tasks (for example, household expert, dependent on men, demeaned housewife), in appearance-role portrayals (for example, dumb broad, growing old), and in an unhappy marriage (for example, powerless to change)” (p.77). In attorney commercials, e.g., depictions by Bernstein and associates, a couple talks to the audience standing in their kitchen. The woman talks to the audience while cleaning, doing domestic chores is expected and understood as natural. The choice of attire follows common representations in advertising. According to Courtney and Whipple (1984) “using a sexy or an attractive woman as a product adornment is an effective attention-getting device” (p.113). Physical attractiveness encourages viewer attention and has an effect on credibility as well. One of the possible reasons to choose an attorney based on their television ad is attractiveness. Attractiveness refers not only to physical attractiveness of the lawyer and associates, but also the aesthetics of the commercial. Some commercials are notorious for demanding attention from viewers. Attorney advertisement is no exception. The use of lighting schemes, appropriate setting wardrobe, and make-up, as well as good editing techniques, composition, and framing can be significant if the goal is to enhance the qualities of an attorney.

Studies of physical attractiveness compared the advantage of attractive people vs. unattractive ones. “In exchange theory’s terms, simply interacting with a physically attractive person might be seen as a benefit, perhaps substantial enough to offset any costs anticipated from the interaction ” (Mulford, Orbell, Shatto, and Stockard 1998:1570). Some viewers might perceive attorneys and/or their associates as physically

attractive and extend this perception to other qualities. The implication of other qualities is the “halo effect of attractiveness” (Mulford, et.al. 1998:1570). This particular extension is characteristic of Western societies that praise beauty above other qualities, especially in relation to people seen on television.

Goffman (1979) explained that the idea behind commercial advertisements is to make the object attractive enough for the viewer or consumer; this is done in collaboration with the person who advertises the product. The female or male model portrayed has to be attractive enough to make the viewer want to be like her or him. Once the identification with the model occurs, the consumer will attempt to acquire the product that will make him or her be like the person associated with it. Therefore, the social situation portrayed is crucial. Consumers feel attracted to the product, through the model, but within the context portrayed. Understanding this relationship is the most important step to anticipate its social impact. The images presented and situations portrayed are all part of the desirable image that the consumer will be looking forward to acquire or imitate. In attorney advertisement, the law firm is the product, and the male or female model is the attorney in collaboration with clients, and assistants depicted in the commercials.

Discourse is also a system that displays gender conventions. The use of either male or female voice over in attorney advertisement conveys meaning in the commercial. The male voice over is associated with *power and information*, whereas female voice over represents *inquiry and conformity* in most cases. According to Macdonald (1995) “Language is not a...neutral or transparent tool. It already carries the imprint of our culture and its values” (p.44). Similar to visual displays, the text and tone of voice is

indicative of gender conventions and replicate existing stereotypes. About the quality in the tone of voice, Macdonald (1995) explains, “Attitudes to male and female voice pitch have...been a peculiarly powerful tool in determining where and when men and women might be granted speaking rights within the media” (p.45). In a subtle manner, voiceovers in attorney advertisements recreate those positions regarding more authority to male than female discourse.

Comparisons

Representations of women as legal assistants and clients should not necessarily be judged as indicative of subordination. Female collaborators are fulfilling a job that is important in our society in spite of being a submissive position in relation to male attorneys. After all, legal assistants conduct the bulk of the jobs in a law firm. My method of evaluation is not across representations of attorney and client or collaborators, but a comparison of representations that hold the same level of hierarchy. I compare male and female attorneys, male and female clients, male and female collaborators and male and female attires. A comparison between lawyer and collaborator is already hierarchical, but gender differentiation should not be exhibited between female or male attorney representations, female or male clients and such. In these comparisons a linear or vertical comparison brings a more accurate view of the discrepancies. Notice that male collaborator vs. female attorney would present the same hierarchical structure as male attorney vs. female collaborator. For this reason, I am comparing sources where equal weight or balance should be expected.

In the following sections, I analyze examples of attorney advertisements that compare male and female portrayals in four different presentations of self: (a) as

attorneys; (b) as clients; (c) as legal assistants or police officers; and (d) by clothes or attire.

(a) *Female and Male Attorneys*

Advertisement 36: Veronica Valentine

I started by observing attorney Veronica Valentine's advertisement in Spanish without audio. The first few images present no indication that this is an attorney commercial: First, a medium shot of two women standing by a small table with drinks against a blue background. Second, a woman in the foreground holds a phone while a man in the background seems to be on the other end. Third, an office is seen from above (bird's eye camera angle) depicting three people gathered around a desk apparently working. Fourth, a composite of different images portray a couple looking at the camera on the left side, and attorney Veronica Valentine on the right side of the screen depicted on the phone. Fifth, the viewer sees a close up of attorney Valentine on the phone with a book on her desk, and the image of an eagle in the background. There are still not visual cues that indicate she is an attorney. Sixth, a happy family depicted in this image and computer graphics superimposed on the lower third (L/3) saying, "Mas de 18 años de experiencia" (free translation: "More than 18 years of experience.") A golden symbol in the shape of a V represents Valentine's name and extends on the theme of her iconic eagle. Seventh, an injured man sits on a sofa and the iconic eagle on the corner of the screen. In the lower third, the viewer reads a disclaimer stating that the Nevada Bar does not certify (this) lawyer as specialist or expert. Eight, a happy woman is on the phone and the iconic eagle on the corner. The disclaimer remains the same adding "honorarios reducidos" (free translation: "reduced fees.") Ninth, Veronica Valentine looks into the camera and says,

“Call us.” The computer graphics in the L/3 say, “Representación gratuita en corte de trafico” (free translation: “Free representation in Traffic Court.”)

IMAGES FROM STORYBOARD



Figure 27a: Two women talk to each other; they have drinks in a small table. Visually, the purpose of the commercial is not clear.

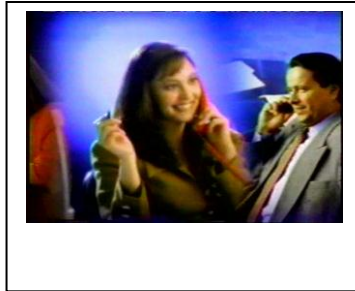


Figure 27b: A woman in the foreground and a man in the background seem to be talking on the phone. No visual indication that this is an attorney ad.



Figure 27c: An office seen from above. No visual cues that this is an attorney commercial.



Figure 27d: On the left side, a couple looks up at the camera. An eagle symbolic of strength and American values is seen in the center of the image. Veronica Valentine is seen on the right side. No visual cues that this is an attorney advertisement.



Figure 27e: A closer framing depicts Valentine on the phone with a book on her desk, still not visual cues that indicate she is an attorney.



Figure 27f: A happy family depicted in this image and graphics saying “more than 18 years of experience.” A golden symbol in the shape of a V represents Valentine’s eagle.



Figure 27g: An injured man sitting on a sofa, and the iconic eagle on the corner. In the lower third, the viewer reads a disclaimer stating that the Nevada Bar does not certify (this) lawyer as specialist or expert.



Figure 27h: A happy woman on the phone, and the iconic eagle on the corner. The disclaimer remains the same adding “reduced fees.”



Figure 27i: Veronica Valentine looks into the camera and says, “call us.” The graphics say, “free representation in Traffic Court.”

Unlike some other attorney ads, when Valentine is portrayed working in her office, the viewer sees no symbols –e.g., legal books on shelves, diplomas, logos, legal scale, etc.—that identify her as a lawyer (see figures 27a – 27f). When watching the commercial without audio, the ad could be a travel agency, vacation plan, realtor, or any other service. It is only in the last images that the viewer reads a disclaimer seen in the lower third of the frame saying that the State bar of Nevada does not endorse any lawyer’s expertise.

During the time I conducted this study only two female attorneys advertised to the Hispanic population. The other female advertisement was attorney Kathia Pereyra who was briefly mentioned for her contribution to the close-captioning of a program.

Attorney Valentine is introduced by a *male* voice over and testimonies of actors playing the part of clients. This commercial lacks legal content. This type of presentation

resonates with the all too common duality that posits that “Men act and women appear” (Berger 1972:47). While male attorneys act in their commercials as lawyers surrounding themselves with legal symbols, Valentine appears in a scenario that lacks any symbolic representation of her legal expertise.

Advertisement 48: Weiss & Weiss

This advertisement begins by immediately establishing the law firm’s intention with a written computer graphic that says, “Bankruptcy, Is it Difficult?” This strategy guides the viewer immediately to the firm’s area of expertise. Weiss and Weiss Law Firm is mainly represented by a male attorney who introduces the firm’s services.

IMAGES FROM STORYBOARD



Figure 28a: By opening the ad with a graphic that says, “Bankruptcy, Is it Difficult?” the law firm is guiding the viewer to understand their area of expertise.



Figure 28b: Attorney Weiss responds the question asked by a female voice over, “Is bankruptcy difficult?”



Figure 28c: After answering the question, all attorneys in the law firm pose for a group photo. Visually, the image is well-balanced with no intentions to call attention to either attorney based on gender.

Attorney Weiss is seen in a $\frac{3}{4}$ profile close up¹² sitting behind his desk. In contrast to Valentine's commercial, his self presentation starts with a question from a *female* voice over saying, "Bankruptcy...Is it difficult?" Attorney Weiss answers the question. Toward the end of the commercial, five attorneys in the law firm gather to pose in a group photo seen in a medium shot (see figures 28a – 28c). A female attorney stands on the left side. All attorneys are portrayed in a similar manner with no distinctions based on gender. The image is well-balanced with no intentions to call attention to the female attorney based on her gender.

Advertisement 53: Ellen Stoebling

Visually, attorney Ellen Stoebling presents herself in her office and adds graphics that provide the viewer with a visual representation of her legal services. Her aural self-presentation would have fallen on deaf ears, had I not compared this presentation with the advertisements by Weiss and Weiss.

The advertisement starts with Stoebling sitting behind her desk with family photos, a computer, and diplomas in the background. A computer graphic in the L/3 identifies her as a bankruptcy attorney. She starts by asking if "there are new requirements for filing bankruptcy." She answers, "Yes." She introduces the next few questions, but rather than exerting her legal authority and knowledge in the topic, she uses a *male* voice over to answer the questions she poses. Computer graphics seen on the screen contain similar information adding check marks after the male voice over answers each question (see figures 29a – 29c).

¹² A profile close up is used during interviews where a person seems to be responding to another who is asking questions, therefore the person interviewed does not look directly into the camera but talks to a space where the interviewee is located. A $\frac{3}{4}$ close up reveals that the person's head or body is slightly turned or placed in an almost 45 degree angle in reference to the viewer.

IMAGES FROM STORYBOARD



Figure 29a: Attorney Stoebing portrayed in her office. The graphics identify her as bankruptcy attorney. She answers the question, “are there new requirements for filing bankruptcy?”

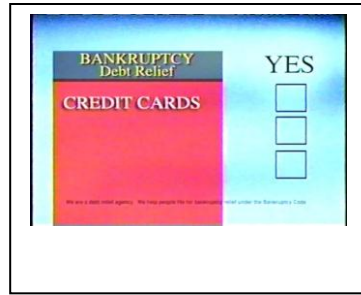


Figure 29b: Attorney Stoebing asks if a person could still “get relief from credit cards”. A male voice over answers yes.



Figure 29c: A check mark appears on each of these categories as attorney Stoebling poses a questions answered by a male voice over.

Why is she finding support in a male voice over to answer questions about bankruptcy when she is the attorney? What would have happened if the person answering were a female voice over? In the case of Weiss and Weiss, he answers questions. In her case, she finds support in a male voice over; the one who asserts the answers to legal questions is an unknown male.

Advertisement 58: Weiss & Weiss

Like his previous advertisement #48, Weiss and Weiss Law Firm follow a similar format. Briefly, the commercial includes a female voice over asking a question about bankruptcy, “Bankruptcy...why should I file?” Again, comparing this presentation with Stoebling’s advertisement, I find that putting gender aside, the responsibility for answering a question regarding legal expertise should fall on the attorney, as Weiss and Weiss portrays. The difference between this advertisement and Stoebling’s is an example of gender inequality.

When observing the scripts without seeing the images, the person who delivers legal expertise in Stoebeling's ad is the *male* voice over; in Weiss' commercial the person who derives legal expertise is the *male* attorney who answers. He responds legal questions to a woman; she asks questions and her male voice over responds, a different presentation of self displaying gender inequality (see figures 29a – 29c, 30a and 30b).

IMAGES FROM STORYBOARD

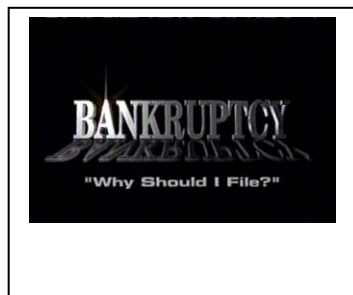


Figure 30a: The advertisement starts with a graphic and female voice over asking a question about bankruptcy.

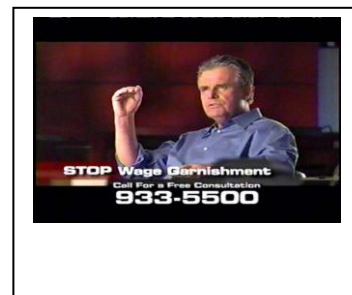


Figure 30b: Attorney Weiss answers the question and tells the viewer to call the law firm and meet him in person.

(b) *Female and Male Clients*

Depictions of female clients replicate some female stereotypes. In some portrayals, women are depicted doing house chores and continue doing so while talking to the audience. Others depict women as irresponsible drivers talking on the phone and causing accidents. In still others, women are depicted as owing money and not being able or willing to pay their debts. Some of these performances could be considered sarcastic or funny. How people perceive humor is differentiated according to gender. Audiences are more likely to accept humor when women are “ridiculed.” According to Courtney and Whipple (1984), in the research studies conducted by Losco and Epstein, and Zillmann

and Stocking, “Both males and females gave higher ratings to stimuli in which females are ridiculed” (p.128; see also Losco and Epstein; and Zillmann and Stocking).

Advertisement 3: Ed Bernstein

In this advertisement, a young couple talks about their experience when injured in a car accident, and regret not contacting attorney Ed Bernstein. Visually, the viewer could see both a man and a woman talking to the audience from a medium shot that slowly pulls in to a close up. In the first shot, we see a man talking to the camera while explaining he was injured in an accident and did not know what to do. While he talks, his female companion is standing in a profile looking at him while doing house chores: she is drying a glass with a kitchen towel. Then it is the woman’s turn to address the audience. She turns to the audience, still holding the glass and towel and says, “But we should have called Ed Bernstein.” While she speaks, he does not make eye contact with her, he continues looking into the camera. He does not perform house chores (see figures 31a – 31c).

A woman doing chores in the kitchen is natural, even when she is addressing the audience. There is no significance in her actions that contribute to the overall statement behind this commercial. He has not lost his ability to move his arms, and is not incapacitated. But seeing them in the kitchen, with her doing chores while he stands next to her is a stereotype of household labor division that viewers are accustomed to watching. According to Bartos (1989) the traditional roles of women in the household fulfilling the “role of wife and mother was seen as a woman’s destiny...Many men and women in all parts of the world still subscribe to this traditional view” (p.49) in spite of changes in the workforce, and that two decades have passed since Bartos’ observation

was made, the roles displayed in attorney Bernstein's commercial go back to traditional views of gender roles in the household.

IMAGES FROM STORYBOARD



Figure 31a: In this commercial, a man talks to the camera saying he was injured in an accident. While he talks, she cleans a glass.



Figure 31b: She is drying a glass on her hand paying attention to what he says.



Figure 31c: She talks to the camera saying they should have called attorney Ed Bernstein. He does not make eye contact with her while she talks.

Advertisement 46: Montelongo

The advertisement portrays a story as an example of a car accident. In a close up, we see that a careful male driver the rear and side mirrors before exiting a parking lot. In a car behind him, we see a close up of two women: a careless driver talking on the phone while driving, laughing with a female passenger not paying attention to the road. The female driver hits the man's car on the rear end. A long shot reveals the man inside the car in pain. Both drivers step out of their cars to assess the damages. In panic, seen from a distance, she acts in a reckless manner not knowing what to do. The male driver is agitated, nervously observing the damage while stating, "Oh! Ya me chocaron no tengo licencia, no tengo aseguranza, no tengo ningún papel ¿que voy a hacer?" (free translation:

“Oh! I’ve been hit, I don’t have a license, don’t have insurance, don’t have a single document, what am I going to do?”) During this representation, the male driver makes no attempt to talk to her. She steps out of her car and may attempt to talk to him, but he does not respond or makes eye contact with her. She is useless before and after the accident that she caused. A computer graphic text is added in the screen providing the attorney’s contact information while a voice over in Spanish indicates not to worry about legal status (see figures 32a – 32f).

Visually, this advertisement presents the stereotype that women are careless drivers. Not only is the female driver not willing to pay attention to the road, but also she was useless at the time of the accident. She was depicted out-of-control, incapable of resolving the situation after the accident.

IMAGES FROM STORYBOARD

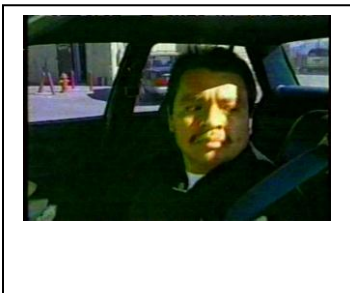


Figure 32a: A man checks the rear and side mirrors before exiting a parking lot.



Figure 32b: A careless female driver speaks on a cell phone, laughing with a female passenger. She does not pay attention to the road.



Figure 32c: The female driver hits the man’s car on the rear end.



Figure 32d: The man is in pain.



Figure 32e: Both drivers step out of their cars. In panic, the female driver runs to see the damage. The male driver is agitated, nervously observing the damage.



Figure 32f: He complains that he does not have insurance or legal documentation. In the background, she attempts to talk to him, but he does not respond.

Visually, this advertisement presents the stereotype that women are careless drivers. Not only is the female driver not willing to pay attention to the road, but also she was useless at the time of the accident. She was depicted out-of-control, incapable of resolving the situation after the accident.

Advertisement 47: Ed Bernstein

This advertisement by Ed Bernstein is similar to the previous Advertisement #3 but with Spanish-speaker actors. A couple talks about their car accident and regret not contacting attorney Ed Bernstein. Once again, they are depicted in the kitchen; she is doing the dishes while he stands by her. There is a slight difference in the portrayal, this commercial is a little longer than the previous one, and he looks at her while she talks to the audience. Similarly to the previous example, while she talks to the audience, she moves her hands displaying the plate she is holding. Both actors playing the role of clients explain they had financial difficulties as a consequence of their accident, and did

not know they could file a lawsuit. At the end, attorney Ed Bernstein asks the viewer to call his office (see figures 33a – 33e).

IMAGES FROM STORYBOARD



Figure 33a: A couple is depicted in a kitchen. He talks to the audience about their car accident.



Figure 33b: She turns to the audience while he talks about the accident. She is holding a dish and continues cleaning.



Figure 33c: While she talks, he pays attention to what she says; she keeps the plate on her hand.



Figure 33d: She makes hand movements with a towel on her hand even though she is talking to the audience. They express their regret for not contacting Ed Bernstein.



Figure 33e: Ed Bernstein appears at the end asking the viewer to call him.

Advertisement 54: Haines & Krieger

Haines and Krieger present the stereotype of the woman consumed by debt that cannot or may not want to pay. In this commercial, the viewer does not see a woman worried because she owes money, we see a woman irritated when a creditor calls her to collect the money she owes, and who reacts quickly at the possibility of getting rid of them. This presentation of self, her lack of concern with the debt itself, but with the person who enforces payment, is distinctive of a lifestyle depicting lavish consumption. The problem itself is not that there is a person charging a debt, the problem, that she fails to recognize, is that she is spending more than she can afford. According to Bauman (1997):

If consumption is the measure of a successful life, of happiness and even of human decency, then the lid has been taken off the human desires; no amount of acquisitions and exciting sensations is ever likely to bring satisfaction in the way the ‘keeping up to the standards’ once promised: there are no standards to keep up to – the finishing line moves forward together with the runners; the goals keep forever distant as one tries to reach them. (P. 40)

In this representation, we see the stereotype of the female shopper. First, we see a close up of a woman working in her office. A box with a close up of a man portraying the role of a creditor appears in the upper left corner of the frame. He threatens to garnish her wages unless she pays the money she owes. Second, the box fades out, and the woman turns to the camera. Irritated she asks if she has to continue being “harassed by those creditors.” A male voice over in an amicable joyful tone responds, “No, call the law firm of Haines and Krieger.” Third, the same woman is seen in a box on the right side of the frame with text around her with attorney contact information. Happy and relieved, she thanks the attorneys “for stopping the harassment” (see figures 34a – 34c).

The attorney suggests the alternative of removing the debt to bring her back to the *starting line* of consumption.

IMAGES FROM STORYBOARD



Figure 34a: A woman is working in her office and a creditor calls her. He appears in a box on the upper left corner of the frame. He threatens to garnish her wages unless she pays the money she owes.



Figure 34b: Irritated she turns to the camera and asks if she has to be harassed by those creditors.



Figure 34c: The voice over indicates to call the law office. She is seen in the last shot thanking Haines and Krieger for stopping the harassment.

(c) Legal Assistants, Family Members, or Police Officers

Legal assistants may or may not talk to the audience. Those who talk to the audience and introduce the attorney's services are mostly females. It is not always clear whether they are actors playing the role of assistants or if they are assistants working at the law firm. Those who do not address the audience are mostly seen in an office collecting documents, answering the phone, or receiving instructions. Other portrayals included in this sample portray police officers and family members.

Advertisement 2: Attorney Chad Golightly

Five police officers are depicted in Chad Golightly's advertisement. Four are males and one is female. In alternative shots, the four policemen talk to the audience from different locations as follows: First, a two shot shows a male officer and Chad Golightly. Second, a female police officer is presented in a long shot kneeling down to cover a victim's body in a scene of an accident. Third, a close up is shown of a male officer depicted in the foreground and an accident scene in the background. Fourth, a close up shows a male officer in the foreground and a woman holding a photo of a crashed car in the background. Fifth, a close up shows a male officer and a scene of an arrest in the background. In the L/3, all four male officers who took turns addressing the audience are identified by name. At the end, the male officers pose in a group photo along with attorney Chad Golightly. The female officer is excluded (see figures 35a – 35f). Visually, these portrayals replicate the hierarchical levels in the workforce where females occupy

IMAGES FROM STORYBOARD



Figure 35a: Attorney Chad Golightly and a police officer in two-shot. In the lower third (L/3) the officer is identified by name.



Figure 35b: Long shot (L.S.) of female police officer kneeling down and covering a victim's body in the ground. She is not identified by name.



Figure 35c: In the foreground superimposed close up (C.U.) of police officer speaking to the camera. In the L/3 the officer is identified by name.

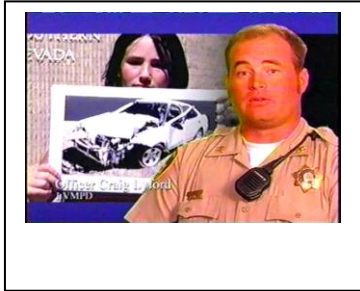


Figure 35d: In the background image of woman holding a photo of a crashed car. Superimposed C.U. of police officer in the foreground. (L/3 with name and identification not captured in this photo)



Figure 35e: In the background, image of person being arrested. In the foreground, C.U. of police officer talking about the accident. L/3 with name and identification.



Figure 35f: L.S. group shot of five policemen and Chad Golightly addressing the audience. The female police officer depicted before is not included, even though another male officer not identified in this commercial appears in the shot.

assistant positions and males occupy higher rankings. The choice of camera distance is also symbolic of this representation, where policemen are portrayed in close ups, and the only female officer is seen in a long shot.

Advertisement 13: Cassady Law

Attorney Jason Cassady is seen in this commercial along with his wife and child. While he talks, his wife watches him with admiration. She does not talk. His wife and baby are decorative figures or symbolic adornments that help to establish his role as family man. The advertisement starts with a medium shot of attorney Cassady, his wife and baby girl. He addresses the audience while she pays attention to what he says. The next shot reduces the image to a box inside the frame placing computer graphics about his contact information. His wife turns to look at the camera. The commercial ends with attorney

Cassady talking to the audience, not making eye contact with his family (see figures 36a – 36c).

IMAGES FROM STORYBOARD



Figure 36a: The advertisement starts in a M.S. of attorney Cassady, his wife, and child. He addresses the audience while his wife looks at him.



Figure 36b: The frame is reduced to a box inside the frame placing computer graphics with his two law firm locations. During the commercial his wife turns to look at the camera.



Figure 36c: The commercial ends with attorney Cassady talking to the audience and his wife is paying attention.

Advertisement 39: Ed Bernstein

Similar to Cassady's advertisement, attorney Ed Bernstein is seen in the last image posing next to a woman who may be an actor playing the role of assistant, or may be his legal assistant. Her inclusion in the photo is not necessary except that she is the link between the Hispanic community and his law firm, based on her appearance she may be Hispanic.

The advertisement starts with a medium shot of two workers. One of them has suffered an injury in the job. A male voice over addresses the audience in Spanish explaining that one of the workers suffered work-related injuries. Next, we see a depiction of road with traffic taken with a telephoto lens that seems to exacerbate the

distance between the cars. A female voice over says that a car “out of control” hit her (in Spanish: “Me golpeó un auto fuera de control.”) A second female voice over indicates, “No matter the kind of accident, you have rights in spite of your legal status in the United States” (in Spanish: “No importa el tipo de accidente, usted tiene derechos aún siendo indocumentado en Estados Unidos”). In the last medium shot, attorney Ed Bernstein poses next to a woman. She smiles but does not address the audience. It is not clear if she spoke in one of the voice-overs. She poses as decorative figure symbolic of ethnic status (see figures 37a – 37e).

IMAGES FROM STORYBOARD



Figure 37a: Two construction workers are depicted in this ad. One of them has suffered an injury in the job. A male voice over addresses the audience in Spanish.



Figure 37b: A depiction of a car accident shot with a telephoto lens. A female voice over talks about car accidents.



Figure 37c: Description of services written in Spanish: Work-related accidents, serious injuries, car accidents. A female voice over says people have rights regardless of their legal status.



Figure 37d: Attorney Ed Bernstein posing next to a woman who may be an actor or assistant asking viewers to call him.



Figure 37e: Graphics with contact information.

Other legal assistant representations

Legal assistants are depicted bringing documents, or assisting attorneys. Attorney Rodney Okano (advertisement #51) is seen in his office sitting behind his desk and a female assistant stands by him, apparently bringing him documents. Attorney Cory Jones from the law firm RJDW (advertisement #68) is seen in his office sitting behind his desk and a female assistant comes in bringing him a file. Attorney Greg Jensen (advertisement #71) depicts male and female assistants. First, Greg Jensen and a male legal assistant are seen standing next to each other, attorney Jensen is giving him instructions. Second, a man who may be an attorney or legal assistant working at Jensen’s law firm gives instructions to a female assistant sitting in front of a computer (see figures 38a – 38d).

IMAGES FROM STORYBOARD



Figure 38a: Advertisement 51: Rodney Okano giving instructions to a female assistant.



Figure 38b: Advertisement 68: Attorney Cory Jones depicted in his office with a female assistant bringing a file.



Figure 38c: Advertisement 71: Greg Jensen is seen in the background giving instructions to a male assistant.



Figure 38d: Advertisement 71: Greg Jensen. A man who may be an attorney or legal assistant working at Jensen's law firm gives instructions to a female assistant.

(d) *Clothes and Attire*

In some examples of attorney ads, graphics are placed on a woman's body that may or may not be intentional. Framing a name or other information placed on the lower third of the frame (L/3) – that is, the bottom of the screen – is a common practice in television. If the person is framed in a medium shot, his or her body is framed from the hip to above the head. If the person is framed in a close-up, the person is depicted from

the top of the shoulders to above the head. The bust shot—that is sometimes still considered a close-up—is framed in between these two. It includes the area above the waist to above the head. If a woman is depicted in a bust shot, and in some cases a medium shot, the graphics in the lower third would necessarily end up on her chest. This may not be intentional. However, the type of clothes that she wears may already be calling attention, and if graphics are superimposed on her chest, the viewer may get the impression that a message is intentionally placed on her bust to call attention.

Clothes and fashion are social constructions that represent cultural preferences. The choices of attire used by women in commercial advertisements convey a meaning that fits cultural expressions and are intentional choices to display a desired image. According to Courtney and Whipple (1984) “women are more likely than men to be shown in decorative or nonfunctional roles” (p. 25). In the examples that follow, women are fulfilling and portraying different tasks and roles. The choice of wardrobe along with camera conventions may be intentionally or unintentionally bringing attention to their bodies.

Advertisement 34: Tingey & Tingey

Tingey and Tingey Law Firm is introduced with a medium shot of a woman who walks outside of an office talking to the camera. The woman is depicted wearing a tight shirt, two-piece suit, and an elaborate hairdo. She walks closer to the camera as the computer graphics on the L/3 fades in with the name of the law firm. She is now framed in a bust shot with the graphics superimposed on her chest. Once she introduces the law firm, the viewer sees a shot of four attorneys working in a conference room; they smile to the

camera but do not talk. Her attire contrasts the formality of the attorneys' presentation (see figures 39a – 39d).

This is an example of using a woman's appeal to call attention. As the camera pulls into her, the information on the L/3 of the screen is placed on her bust, a strategy that has been used before in other commercials by Glen Lerner, Adam Kutner and others. Because of a female body shape it is not uncommon to place information on a female's body, which would not have the same effect if using the exact same composition with a male character or actor. The intention behind this commercial might not be to use the female bust as a framing device to call the viewer's attention on that particular area of her body; yet, the choice of attire and her appearance seems indicative that the intention is indeed to call attention to her body.

IMAGES FROM STORYBOARD



Figure 39a: A woman walks in an exterior location talking to the camera about the law firm services. She is framed in a medium shot.

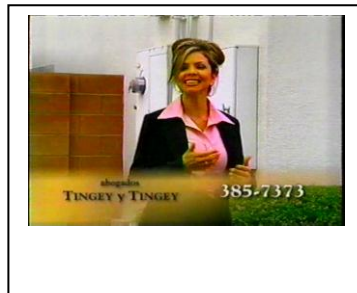


Figure 39b: As she walks closer to the camera, C.G. appear in the L/3 of the screen with contact information.



Figure 39c: She comes closer to the camera and ends in a bust shot; now the graphics are superimposed on her chest.



Figure 39d: Four attorneys depicted in a conference room.

Advertisement 69: Adam Kutner

Similar to the previous example by Tingey and Tingey, attorney Adam Kutner’s services are introduced by a female legal assistant or actor portraying that role. She is framed in a bust shot. When the graphics are placed on the lower third, the attorney’s name and contact information are superimposed on her chest. The next shot depicts the attorney and clients in a long shot; the computer graphics do not fall on body parts that might be seen

IMAGES FROM STORYBOARD

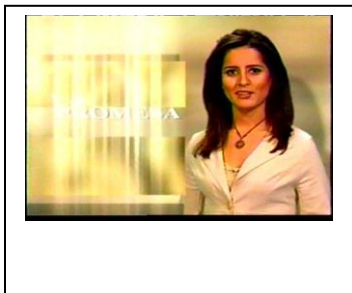


Figure 40a: A bust shot of a woman who introduces Adam Kutner Law Firm.



Figure 40b: Computer graphics (C.G.) superimposed on the image fall on her chest.



Figure 40c: Notice that the computer graphics have not changed. This L.S. of the attorney and clients do not interfere with the graphics.



Figure 40d: Another shot with the attorney and the same woman. The camera is placed at a distance and the graphics do not interfere with her slight profile.



Figure 40e: The same graphics are maintained in the screen and her bust shot frames the attorney information directly on her chest.



Figure 40f: Last shot without graphics.

as strategic. On the next shot, attorney Adam Kutner and the same woman are depicted on a bust shot. The camera is placed at a distance. Her body is placed slightly on a $\frac{3}{4}$ profile avoiding the positioning of the graphics on her chest (see figures 40a – 40f).

Advertisement 53: Ellen Stoebling

Attorney Ellen Stoebling is portrayed in her commercial that starts with a medium shot, as the camera pulls in the last shot frames her in a bust shot. The same graphics used in the first image stay on the $L/3$ of the screen and end up being framed on her chest. Yet, her attire and slight profile presents her in a formal manner allowing the viewer to focus on her message rather than the strategic positioning of the graphics (see figures 41a - 41b).

IMAGES FROM STORYBOARD



Figure 41a: Attorney Stoebing portrayed in her office starts in a medium shot. Computer graphics in the L/3 include her name and contact information.



Figure 41b: As the camera pulls in attorney Stoebing is depicted in a bust shot and the graphics are placed on her chest. Yet, her demeanor and formality allow the viewer to pay attention to her message rather than the strategic positioning of the graphics.

Conclusion

Feminist theorists have argued that gender, as social characteristics mediated in society, is “central to self-identities and identity of women as a class” (Macnamara 2006:7). A similar argument, concludes Macnamara (2006), is true for men’s identities and the perceptions and expectations of others. Although it is recognized that “identities cannot be viewed as constructed by media representations alone” (Macnamara 2006:69; see also Newbold et al.; Barthes 1972; Hall 1973; Lovell 1980; Woodward 1997) television viewing and the media in general, inform identities and help disseminate stereotypes. Feminist researchers pursued a refocusing attention to the roles of women and their historical contributions to society. “By focusing on women as significant agents in history, literature, and communication, feminist scholars in the humanities have discovered that such work entails a reformulation of traditional notions of knowledge, truth, value, and significance” (Cirksena and Cuklanz 1992:39). It is not the roles that

women portray in television the focus of concern, but that those role representations are not esteemed in our culture. Displays of women in their roles as mothers, housewives, and workers are “devaluated” (Macdonald 1995). Moreover, quoting from Berger, Macdonald (1995) argues that “women are trained by the traditions of their visual representation in western culture to look at themselves from a masculine perspective” (p. 31). Media representations of attorneys, clients, and assistants portray how society values each informed by the traditional gender representations in Western culture.

The feminist analysis I bring in this section should be central to developing alternatives modes of constructing attorney image. In this analysis, I brought forth how female attorneys themselves replicate stereotypes that portray their own images as less knowledgeable and assertive than their male counterparts.

CHAPTER 7

ETHNIC PROXIMITY AND IMMIGRATION

Race and ethnicity are two distinct categories. Race refers to biological distinctions that assign people in different categories according to perceived characteristics. Standard categories for race used by the United States Census Bureau includes American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White (U.S. Census Bureau 2010). Ethnicity refers to cultural heritage that influences traditions, beliefs, behaviors, and attitudes. The minimum standard classifications used by the U.S. Census Bureau distinguish Hispanic or Latino or Not Hispanic or Latino (U.S. Census Bureau 2010). How we perceive, identify, and value these categories is socially constructed. Identities are shaped by these perceptions and the manner in which society constructs meaning around these categories.

In their advertisements, attorneys gain trust by using different schemes in their presentations. Through the use of language and symbolic representations, attorneys make reference to their apparent understanding of a given ethnic community. In their portrayals, they assert their ethnic background, having been through the same experiences, speaking the same language or mentioning that people in their office have command of the language. Attorneys may also include representations that target audiences who question their legal situation, rights and options, and may be afraid of consulting an attorney. In their commercials, attorneys bring up the problems of migration. Undocumented immigrants may feel afraid of talking to attorneys because they do not have legal documentation. If they suffer work-related injuries or car accidents, consulting an attorney may be perceived as another instance to face the law.

Attorneys claim that they can protect their rights whether or not a person maintains a legal status in the U.S.

Lawyers use a number of approaches to gain confidence and trust. Common strategies they use to represent ethnic proximity include addressing the audience in their language, using slogans and catchy phrases (such as, “la raza attorney,” “your legal status does not matter,” “I will take care of you,”) posing next to people of a particular ethnic background, and/or playing a part in a representation of ethnic traditions. During the times when I recorded commercials, I noticed depictions targeting the Hispanic community, along with symbolic representations of core American values. No other ethnic backgrounds were addressed in television commercials. The lack of representation of other ethnic communities in this sample is not indicative of lack of attorney services. It may be that television advertisement is not the medium of choice to distribute information regarding legal services. Targeting the Hispanic community is important since this group’s economic and demographic power in Las Vegas and nationwide is increasing. In her overview of the purchasing power of the Hispanic population, Soto (2006) explains:

U.S. Hispanic purchasing power surged to nearly \$700 billion in 2005 and is projected to reach as much as \$1 trillion by 2007, nearly three times the overall national rate over the past decade. Current Hispanic purchasing power is 8.5 percent of total U.S. purchasing power but is projected to reach 11 percent by 2010...Goldman Sachs projections indicate that the Hispanic population and their incomes will rise concurrently and continue to converge toward the national average. (P.7)

In the following sections, I examine the criminal justice system and its relation to race and ethnicity, and the language and symbols used by attorneys in their commercials

in English and Spanish. I start with an evaluation of the criminal justice system in the United States distinguishing how different ethnic groups and races experience the law. Although several studies point to disparities in the criminal justice system with the African American and Hispanic communities, I will expand on the latter since attorney commercials target the Hispanic community specifically. Next, I examine symbolic representations in advertisements in English and ethnic proximity portrayals in Spanish. When examining representations of core American values, I paid attention to the symbols and representations of American traditions and ideals. When examining representations of ethnic proximity oriented toward the Hispanic community, I found four subdivisions: (1) Information about attorney services in Spanish is added in the screen as written information. (2) A voice –over or person portrayed in the commercial mentions providing services in Spanish. (3) Attorneys speak or read a message in Spanish with an English-American accent. (4) Attorneys with full command of the language addressing the public in person.

Ethnic Groups and Criminal Justice

The application of the law, interactions with the legal system (e.g., police officers, attorneys, and judges), the outcomes of a legal proceeding, and any steps where the law mediates behavior vary according to culture, time, and individual behavior. According to Baumgartner (1999) similar cases “can elicit dramatically different legal responses, ranging from complete inaction to aggressive and punitive intervention” (p. 1). People facing the law or involved in a case where the law may mediate behavior have different responses. At both ends of the spectrum, whether facing the law, or applying and interpreting the law individuals respond differently. Baumgartner (1999) explains:

Given the same provocation, only some of the people who could call the police or lodge a complaint proceed to do so. The police arrest only some of the many individuals who come to their attention. Prosecutors bring numerous and serious charges against some persons while deciding not to proceed at all against others. Some criminal defendants are convicted while others go free. In civil matters, some people are ordered to pay huge sums in damages while others are found to owe little or nothing. Further examples of such differential treatment could be multiplied, for the phenomenon is pervasive—indeed, universal. It is observable throughout all stages of the legal process in all legal systems. (P. 1)

Baumgartner (1999) does not offer an explanation for these discrepancies in the application and understanding of the law, except that they might be related to “personalities, values, and idiosyncrasies...the differences in cases outcomes have extremely complicated origins and are ultimately inexplicable” (p. 2). However, other studies suggest that the law is not applied to all members in society equally, some may suffer harsher punishment, vigilance, and prosecution more often than others based on their ethnic background or perceived race (Hawkins 1995; Walker, Spohn, and DeLone 2000; Bosworth and Flavin 2007; Marshall 1997). Bosworth and Flavin (2007) assert, “A troubling relationship exists among race, social control, and punishment” (p. 1). Prisons have disproportionate numbers of minorities that raise questions attempting to explain whether our judicial system might be stricter with these groups. Walker, Spohn and DeLone (2000) explain that in the United States, “Nearly every problem related to criminal justice issues involves matters of race and ethnicity” (p. 1). Bosworth and Flavin (2007) add that “overrepresentation of minorities in penal systems that occurs around the world is nowhere more evident than in the United States” (p. 1). Empirical explanations

for this phenomena relate to “the legacy of colonialism and slavery” (Bosworth and Flavin 2007:2) that perpetuates cultural ideologies with real consequences. Recent legislation toward immigration reveals “levels of fear and suspicion of foreigners” (Bosworth and Flavin 2007:2) that are a persistent trend in U.S. history.

The minority groups that seem to receive harsher punishments when facing the law are African Americans followed by Hispanics. The ratio of African American males in prison in comparison to white males is 7:1 (Walker, Spohn, and DeLone 2000). In 1996, the percentage of African Americans in prison was 49.4, “despite the fact that blacks represents only 12 percent of the U.S. population” (Walker, Spohn, and DeLone 2000:1). During the same period, the percentage of Hispanics in prison was “17.5 percent” (Walker, Spohn, and DeLone 2001:1) and the percentage of Hispanics in the total U.S. population according to the U.S. Census Bureau was “10.8 percent” (Reed 1997). These ethnic groups are perceived similarly lower in standards in comparison to other groups or communities –especially Asian Americans—overly represented in the media as problematic and uneducated. According to Marshall (1997) the experiences of African Americans and Hispanics are similar:

Paralleling the experiences of black Americans, Hispanics as a group are relatively powerless, they have been (or are) seen as ‘different,’ often threatening, problematic, or deviant; they have been subject to discriminatory laws and regulations, prejudice, and negative stereotyping; the focus of public fear and violence; and targets of political campaigns. On average, they are less educated, more likely to be unemployed, poorer, and less healthy than the non-Hispanic population. (P.14; see also Hacker 1992)

Within the Hispanic population, Mexican Americans are the largest group and have “attracted most of the public fear and allegations of crime by illegals” (Marshall 1997:14).

The range of offenses or crime-related activities involving the Hispanic community relate mostly to drug trafficking and illegal immigration. Similar to the experience of African Americans, who are the “target of pretextual traffic stops and searches,...Latinas(os) also suffer from the biased scrutiny of police officers across the country...stopped by police on the suspicion that they are drug smugglers, undocumented immigrants, or both” (Urbina and Smith 2007:54-5). As the population of the groups increases, so does the percentage of the Hispanic population in prisons, with Hispanics “being the fastest growing minority group in prison from 1980 to 1993” (Marshall 1997:14-15; see also Donziger 1996), escalating in percentages in state and federal prison from “10.9 to 15.6 percent” (Urbina and Smith 2007:1; see also Bonczar 2003) between the years 1985 to 2001.

In comparison with other ethnic communities, Hispanic households also have higher victimization rates. Hispanics suffer more burglary, car theft, larceny, personal robbery and have participation in other crimes –such as, involvement in gang subcultures and drug trafficking. “A large proportion of criminal victimization is intraethnic (i.e., Hispanics victimizing other Hispanics), which is consistent with the overrepresentation of Hispanics in arrest and incarceration statistics” (Marshall 1997:15). The large presence of Hispanics in prison may also be a reflection of discrimination and scapegoating. According to Urbina and Smith (2007) “Criminalizing Mexicans has been of particular benefit for those employers who use the threat of raids and deportation as a tool of

intimidation and control” (p. 52). Expanding on discrimination, Marshall (1997) lists different studies that point out other related discrepancies:

Studies have documented that Chicanos (compared to Anglos) receive harsher treatment at each stage of the criminal process in Monterrey County, California (Garza 1995); that Hispanics (compared to the general population) in Texas feel less safe, do not trust the police, and do not feel they have adequate police protection (Carter 1995a, 1995b); that Mexican-origin defendants (and blacks) are considerably more likely to receive a severe sentence than comparable Anglo defendants (Holmes & Daudistel 1995); that there has been a marked increase in racial violence against Latinos (Hernandez 1995); that Hispanic criminal defendants received less favorable pretrial release outcomes, were more likely to be convicted in jury trials, and received more severe sentences than whites in Tucson, Arizona and El Paso, Texas (La Free 1995). Language barriers handicap many Latino criminal defendants (Lopez 1995), contributing to misunderstandings and reinforcing prejudice among police (Mann 1993:103). (Pp.15-6)

Work-Related Injuries

Attorneys advertising to the Hispanic community offer their services for cases of personal injury –specifically car accidents, work-related injuries or migration problems. Advertising services to Hispanics involved in car accidents seem to be the most lucrative and widely advertised. Yet, a large number of workers suffer work-related injuries that range from minor accidents to death. Hispanic workers and their families may not pursue a legal retribution or monetary compensation in fear of being deported or losing their jobs. According to the *New York Times*’ reporter David Barstow, employers violating safety rules have caused a number of deaths:

Over a span of two decades, from 1982 to 2002, OSHA investigated 1,242...horror stories –instances in which the agency concluded that workers had died because of their

employer's 'willful' safety violations. Yet in 93 percent of those case, OSHA declined to seek prosecution...What is more, having avoided prosecution once, at least 70 employers willfully violated safety laws again, resulting in scores of additional deaths. Even these repeat violators were rarely prosecuted. (2003: A1)

According to the same article, in 2003 there were 19 deaths in the state of Nevada, 14 number of cases reached OSHA, and only one case was prosecuted. Workers from small companies to large corporations are included in OSHA files. The problems with OSHA are not only that budget cuts force the increasing number of cases assigned to investigators, but also that "State and federal safety regulators often grant employers deep reductions in fines if they agree to forego legal challenges and promptly correct safety hazards" (Barstow 2003:A28).

In a comparison between crime rates and occupational hazards, Reiman (2001) presents the argument that more deaths occur as a result of occupational diseases than as a result of crime among the labor force. He compares reports by the Bureau of Labor Statistics (BLS) for 1997 noting that occupational diseases cause "25,000 deaths" while criminal activities lead to "9,500 deaths" (p.81). These numbers suggest that people may have a distorted view of what constitutes danger in our society. In both cases, reports about occupational disease and criminal harm are underreported. Reiman considers that OSHA reports reflect less the realities of occupational injuries and diseases, a proposition that coincides with reports from the University of Washington that says, "one in four Americans currently suffers and occupational disease...[and] only one of the 10 workers with an occupational disease had been included in either OSHA statistics..." (Reiman 2001:82). For these reasons, Reiman concludes that a worker is safer and "more likely to stay alive and healthy" (p.82) when not working. Furthermore, in 1997 "the crime clock

shows a murder occurring every 29 minutes...this clock would show an occupational death about every 17 minutes. In other words, in about the time it takes for two murders on the crime clock, more than three workers have died just from trying to make a living” (Reiman 2001:83).

The problems of underreporting worker injury and illness are not due to a lack of concern but to lack of funding. OSHA is understaffed and this affects the number of inspections that OSHA officials can perform throughout the year. “OSHA attorneys are sometimes forced to enter into penalty-slashing settlements just to keep a burgeoning backlog cases at bay...” Moreover, and related to the judicial system, “...OSHA managers and attorneys know that appeal judges often discount penalties regardless of the formal procedures OSHA used in calculating the fine” (Reiman 2001:84; see also Lofgren 1989). The system of law works against worker rights in favor of reducing appeals in Court. This kind of attitude is similar to Judges’ reactions to personal injury cases brought to Court. In order to deter people from overcrowding cases in Court, Judges penalize accident victims.

Reports on the monetary compensation awarded to victims and/or their families bring forth another problem in the judicial system. Reiman (2001) explains, ““The median penalty paid by an employer during the years 1972-1990 following an incident resulting in death or serious injury of a worker was just \$480.’ The same report claims that the federal government spends \$1.1 billion a year to protect fish and wildlife and only \$300 million a year to protect workers from health and safety hazards on the job” (Reiman 2001:84: see also Swoboda 1992).

The Bureau of Labor Statistics (BLS) Census states that work-related illness with serious or fatal consequences is difficult to estimate because of the delay between exposure and the appearance of symptoms. About its data the BLS Census states:

It is difficult to compile a complete count of fatal occupational diseases because the latency period for many of these conditions may span years. In addition, there is some difficulty in linking illnesses to work exposures. Data presented [here] are incomplete, therefore, and do not represent all deaths that result from occupational diseases” (Reiman 2001:79).

According to the Census of Fatal Occupational Injuries Summary of 2008, “A total of 5,071 fatal work injuries were recorded in the United States in 2008, down from a total of 5,657 fatal work injuries reported for 2007” (U.S. Department of Labor – Census of Fatal Occupational Injuries Summary 2009). The decline in these numbers can be attributed to unemployment and the drop in personnel collecting this type of data. In the state of Nevada exclusively, the total number of fatalities related to work declined from 71 in 2007 to 40 in 2008. Injuries occurred in these events as follows: 14 in transportation incidents; 4 in assaults and violent acts; 12 in contact with objects and equipment; 5 in falls; 3 in exposure to harmful substances or environments; and none related to fires and explosions¹³. (U.S. Department of Labor – Fatal Occupational Injuries by State and Event or Exposure 2009).

Nonfatal workplace injuries and illnesses reported in 2008 amount to 3.7 million cases in private industry. Of these cases 1,078,100 involved days away from work; 416,620 involved sprains, strains, and tears; 222,2090 injuries to the back; and 234,840 involving falls (U.S. Department of Labor – Injuries, Illnesses and Fatalities 2009). The

¹³ The report mentions a total of 40 fatalities in Nevada, yet, when adding the numbers mentioned for each category, I counted a total of 38.

number of job-related injuries and illnesses in the private industry sector in Nevada in 2008 are 10,870. This data includes only injuries involving days away from work and excludes public sectors and the military (Nevada Department of Business and Industry 2009). The race or ethnic origin reported in these cases was 27.1% were white, 26.8% Hispanic or Latino, and 42% did not report their race. The nature of injuries included those that required medical treatment, such as, “sprains and strains (41.9%); bruises and contusions (11.5%); cuts and lacerations (9%); fractures (7.3%); chemical burns (4%); multiple traumatic injuries (3.9%); punctures (1.5%); heat burns (1.7%); amputations (0.5%); and tendonitis (0.2%)” (Nevada Department of Business and Industry 2009). In all these 10,870 cases the median days away from work was seven. Among the most serious injuries, the median days off required in each case were as follows: fractures 36 days; amputations 32 days; and chemical burns 30 days. Most injuries happen between 8:00 a.m. to 12:00 noon (28.4%) or from 12:01 p.m. to 4:00 p.m. (26.45%). A comparison based on gender shows that more males (73.5%) report injuries than females (25.9%). (Nevada Department of Business and Industry 2009).

Ethnic Community Lawyers

Minorities are underrepresented in the field of law. According to Vago (2000) “In 1998, almost 6 percent of all law students were African Americans, 3.1 percent Hispanic Americans, 2.1 percent Asian Americans, and 0.03 percent Native Americans” (p.388). This lack of ethnic representation is significant. Critical Legal Studies (“Crits”) examine the dominant position of law as “an instrument of social, economic, and political domination” (MacDonald 2002:30). Critical legal scholars assume not only their privileged position in society, but argue that law schools reproduce systems of

stratification in society. These researchers also advance the argument that through the legal system, judges perpetuate elitist politics, as decisions are based on references to precedents. “For Critics, this type of ‘authority’ is bogus, politicized, and effectively succeeds in further marginalizing groups that have been traditionally disadvantaged by the system” (MacDonald 2002:31). That our legal system is based on precedents helps to reinforce the same injustices that have silenced many voices. As such, the legal system ignores the oppressed, minorities, and puts the elites in an advantageous position before the law. The perpetuation of discriminatory views precedes our time; it is considered a legacy of colonialism (Urbina and Smith 2007).

The legal profession has been traditionally “dominated by white males” (Vago 2000:361), with people from other ethnic backgrounds and races systematically underrepresented in law schools. The history of law, the accumulation of experiences resulting in rules, regulations, and laws consistently yield decisions where the poor, underprivileged, minorities, and women are excluded¹⁴. According to MacKinnon (1995) “...those who can and do make law work for them, those who designed it so it would work for them, as if they were the whole world, are men—specifically, white upper-class men” (p.110). As explained in previous chapters, the number of lawyers has increased for many decades, although this growth does not mean that all areas of the population have been represented equally. According to Vago (2000), “Since the 1960s, law has become the fastest growing of all professions in the United States... [I]n 1984...one out of every 364 people was a lawyer...But only one attorney seems to be available for every 7,000 poor Americans, and the ration is one to 14,000 in the Chicano community” (p. 363-4; see also Curran 1986 and Spangler 1986).

¹⁴ Law schools started admitting women in 1870 (Vago 2000).

Advertising to the Hispanic Community

When attorneys advertise to the Hispanic community, they understand that they are dealing with a group that has been and continues to be oppressed and marginalized. Migration problems are consistent in representations in the media. News programs present information about raids, and criminal activity depicting these groups. According to Bosworth (2007), “Noncitizens are one of the fastest growing populations in United States penal facilities. They are held in state and federal prisons and local jails. They are also placed in institutions run by the U.S. Bureau of Immigration and Customs Enforcement (ICE)...and in private facilities contracted to ICE” (p. 134).

Legal advertisements replicate the images that for some represent their personal situation. Fear of the police, of being deported, of being denied of rights, are all portrayed in commercials as representations of what a Hispanic immigrant might experience in real life. Three distinct scenarios are likely when an ethnic client decides to contact an attorney; a person may value the ethnic proximity of the attorney who shares a similar ethnic background; the person may contact an attorney of a different ethnic background if s/he expresses affinity with his or her culture and speaks the language; or the person may not trust the knowledge and experience of an ethnic lawyer. According to Tran Sood (2005) preference for a lawyer of the same ethnic background implies the following:

... [M]ost ethnic clients prefer ethnic lawyers because of their understanding of the culture. As a result, these ethnic clients assume, rightly or wrongly, that ethnic lawyers will be empathetic and understanding to their circumstances and thus will be more effective in resolving their legal issues. Another reason ethnic clients prefer ethnic lawyers is the ethnic clients’ preference to communicate in their native languages, even if they are bilingual. (P. 136)

She distinguishes attorneys who service the ethnic community, but are not of the same ethnicity from “ethnic lawyers” who share the same ethnic background as the targeted community (Tran Sood 2005:135). Non-ethnic lawyers, who advertise to a specific group, may be successful in their commercials if they express their knowledge and affinity with the ethnic community. Tran Sood (2005) cites the example of Caucasian attorneys who speak Vietnamese, “...an ethnic client is likely to engage a nonethnic lawyer who has an interest in the language and culture. In the Vietnamese community in San Jose, a few Caucasian lawyers speak Vietnamese, and Vietnamese clients favor them over nonethnic lawyers who do not speak the language” (p. 136).

The other possibility is that an ethnic client may distrust a lawyer of his or her same cultural background. The reason might be that s/he perceives the disadvantages that the lawyer might face for being an immigrant as well. Also the close knit nature of an ethnic community –Tran Sood (2005) refers to the Vietnamese community—may also play a role:

Some ethnic clients prefer nonethnic lawyers. Privacy and false assumption of competency are the main factors influencing ethnic clients to engage nonethnic lawyers. Ethnic clients assume, rightly or wrongly, that their matters will not be a topic of gossip in the ethnic community if they engage nonethnic lawyers, who are not a part of a networking grapevine. Moreover, some ethnic clients sincerely believe that Caucasian lawyers are more competent than ethnic lawyers. (P. 136)

The use of language is important not only as a communication tool between client and attorney, but in the relations and interactions of the attorney in court. The efficiency and competence of the attorney is measured through his verbal capability to present a case to a judge, jury, or insurance company. Shuy (2005) explains, “Perhaps the most

commonly recognized function of language power resides in the speakers' ability to effectively implement their own agendas...and to dominate the agendas of other speakers..." (p.32). Attorneys who advertise start controlling the outcomes from the time they address the audience in their own languages, or expressing concern for a particular ethnic community.

Another instance of identification with the attorney might be the recognition of similar racial characteristics between the ethnic client and the attorney. In their study of the Asian market, Morimoto and La Ferle (2008) explained that audiences tend to accept information in advertisements when the "audience's race and the communicator's characteristics..." (p. 51) are *congruent*; consumers find a "salesperson to be more trustworthy" (p. 50) if their races are congruent; and the levels of "expertise" of a model advertising "race oriented products such as skin-foundation" (p.51) was more favorable if the model was of the same race. Morimoto and La Ferle (2008) found that in particular "Asian Americans... [In their study] perceived the Asian model as more credible than Caucasian models..." (p. 57).

Symmetry and Asymmetry in Discourse

Examining language is important to understand the manner in which attorneys refer to their clients in Spanish. Attorneys may refer to their clients using the pronouns *tú* (informal singular you) or *usted* (formal singular you). In general, *tú* indicates some familiarity or closer relationship with the other person. It is used among friends, classmates, relatives, and peers of the same age. *Usted* is used in formal situations when people need to denote some distance or when addressing strangers. It is also used in a classroom between professor and student, and to convey respect toward a person or peers

with higher ranking, or older in age. When attorneys refer to their clients using the informal pronoun you (*tú*) they attempt to establish a casual, amicable, and closer relationship; when using the formal pronoun you (*usted*) they denote a respectful manner establishing a distance.

Goffman (1979) discussed distinctions of this sort via the concept of symmetry or asymmetry. Symmetry is a relationship where there is no obvious display of inequality between two people. An example may be, when two people call each other by their first names, or conversely, when a person addresses another using a title, the words “sir,” “Mrs.” or “Mr.” while the other party uses first-naming in his or her response.

For Spanish speakers, the formal manner is expected in this type of interaction. If the attorney addresses the client using the informal you but the client addresses him or her using the formal you, then a hierarchical ranking is established. If commercials exhibit this type of language, this is indicative that the attorney portrays her/himself higher in status than the client. Some attorneys refer to the audience using both “tú” and “usted.” This is the equivalent as using a playful, informal portrayal and a serious distant presentation of self. Using both approaches may create confusion, however, and may be interpreted as not having full command of the language, although this may not refrain viewers from trusting the attorney¹⁵.

When talking to the Hispanic community, attorneys establish trust by using four different strategies. First, they may add information in the lower third (L/3) of the screen with a small message saying “we speak Spanish.” This informs the viewer that, if preferred, they could approach this office and someone will translate or communicate

¹⁵ My intention is not to defend one presentation of self or another, but to point to an inconsistency in the use of the language.

with them in the Spanish language. Second, a voice over or person portrayed in the commercial may tell the audience in Spanish that the lawyer or people in the law firm speak Spanish. Although this approach adds more credibility and may seem to convey the message better than the first, there is no proof that the attorneys are in fact Spanish speakers. Legal assistants portrayed in the commercial fall under this category, unless there is a disclaimer identifying them as actors or legal personnel, the viewer cannot tell if they are working at the law firm or playing a part in the commercial. Third, the attorney may address the audience in Spanish with an accent, having learned the script or by reading a message from a teleprompter. How Spanish speakers react to this portrayal would be interesting for research. This may induce or inhibit people from approaching the attorney, judging from his or her knowledge of the language. Fourth, the Spanish speaker fluently talks to the audience in Spanish, and sometimes using idiomatic expressions or phrases to create familiarity.

According to Soto (2006) a person from Hispanic descent who lives in a place like Los Angeles where a vast number of the population is of the same ethnic background "...will offer comfort and support, if only on a psychological level. The opposite is likely the case for the person living in Nashville. This person is more likely to feel isolated, fearful, depressed, nostalgic, and completely out of his element" (p. 12). Yet, this does not guarantee that in a situation of risk, when the person needs to contact an attorney s/he would prefer to reach a Hispanic attorney. S/he might trust attorneys who speak English more than a person of the same ethnic background.

The race of Hispanics can be white, black, Indian, or some combination of these or others. Soto describes an example of a person of "Peruvian" origin who may self-

identify himself in relation to his “Chinese heritage” (p.3) given the number of Chinese workers that migrated to Peru in 1849 (Soto 2006:3). Heritage and racial perceptions are not easy to classify and the word Hispanic embraces a wide range of people from different nationalities. Soto explains, “...the U.S. Hispanic population, made up of people from more than two dozen Latin American countries, cannot be considered a homogenous group” (p.4).

For lack of a better term, in the analysis that follows, I will use the term *Hispanic* to refer to attorney commercials that address the audience in Spanish with portrayals of lawyers, personnel, actors and voice-overs with command of the language and/or whose racial characteristics could be perceived as coming from Spanish-speaking countries. I will use the words *Spanish-speaking* attorneys to refer to those who address the audience in Spanish but whose accents and/or racial characteristics do not readily identify them as not from Hispanic origin.

Using Symbols

The use of symbols in attorney advertisements adds meaning to the visual and textual representations: the U.S. flag and eagle represent American values; the legal scale, blind-folded woman, legal books on shelves, and diplomas on the walls represent legal expertise enhancing credibility; family portraits or depictions of happy clients and assistants represent family values and work ethics. Altogether these depictions create sentiments of patriotism that influences viewers who identify with these representations of American values. Objects carry and embody meanings culturally commodified to appeal to people’s nostalgic hunger for core values. Fiske (1989) argues that “all

commodities can be used by the consumer to construct meanings of self, of social identity and social relations” (p.11).

In contrast to symbols of core American values, depictions targeting the Hispanic community tend to show scenes of arrests, handcuffs, illegal immigrants’ distress, pain and fear (see chapter 8). These displays are symbolic of the situations of illegal immigrants. Violent scenes capture attention, along with an ad’s resolution depicting the attorney as the only solution. In reference to the popularity of violence in television programs, Fiske (1989) argues that:

Violence is popular because it is a concrete representation of social domination and subordination, and therefore because it represents resistance to that subordination. The socially and racially disadvantaged can see their social representatives in conflict with the forces of dominance, and, in the early stages of the narrative, in *successful* conflict: the villains win all but the final fight. (P. 136)

In attorney commercials, viewers may identify with the struggle and subordinate position, understand the violence, read the symbols that represent oppression, and understand the message that the final fight might be won if they contact an attorney. The symbols and language used by the senders of the message are carefully crafted to appeal to this notion. According to Scott (1994) “The sender...crafts the message in anticipation of the audience’s probable response, using shared knowledge of various vocabularies and conventions, as well as common experiences. Receivers of the message use this same body of cultural knowledge to read the message, infer the sender’s intention, evaluate the argument, and formulate a response” (pp. 252-253).

Advertising to Ethnic Minorities

In some commercials, lawyers introduce themselves as family, friends, or members of the same ethnic background as their clients. Explaining the different presentations of self is worth paying attention to, because television provides a frame of reference that viewers use to create an identity and to learn from other people's identity: "...individual race-ethnic identity construction works and reworks conceptual and affective material drawn not only from the self, but also from surrounding cultural-societal-political, communal, and familiar contexts, in an interactive process. Group identity is constructed in interaction with the state and with other groups" (Yanow 2003:88).

When observing African American portrayals, I identified one African American male attorney, three depictions of African American clients, and one female police officer. Excluding African Americans from representing attorneys, clients, family members, and other roles is not an effective manner if the intent is to include that population as a possible target. According to Stevenson (2007) "black models may be more effective than whites in communicating with the black audience" (p.2; see also Choudhury and Schmidt 1974; Gibson 1969). The lack of representation of different races in the media promotes tension. Even when my intention is not to promote attorney advertisement in general, my observation is that African American attorneys, clients, personnel, and others are underrepresented. Regarding media coverage in the aftermath of Hurricane Katrina, Stevenson (2007) explains, "attention to racial issues in the media is still needed...through stereotyping and under representation, advertising media were contributing to racial unrest in the U.S." (p.3; see also Ward 1992).

Other groups that may have been identified as minorities in the past so-called “white ethnics” may be incorporated today in the category of White, even when accents, recognition of last names, and symbolic depictions may suggest their “ethnic” (non-WASP) backgrounds. According to Yanow (2003) “The Irish, Italians, Jewish, and other non-Anglo-Saxon, non-Protestant European immigrants identified as races in the 1800s to mid-1900s are now subsumed under ‘White’. Their designation as distinct racial groups has been lost from public discourse” (p.19).

In attorney advertisement, the predominant groups are White males, followed by Spanish-speaking males, and White and Spanish-speaking female attorneys. The most notorious disparities in the media indicate that gender is the main dividing category, followed by race and ethnicity. Feminist theorists have raised their concern here, pointing to the lack of representation of women exacerbated by the exclusion of races other than White-female in different arenas. Houston (1992) explains, “The prevailing voices in feminist theory in the United States have been those of white middle-class women, economically privileged members of the dominant culture” (p. 45). Leaving aside social class, since this departs from my argument, I observe five female attorneys—three are White and two are Spanish-speaking attorneys. After addressing a concern for gender disparities, the next divider in attorney representations is ethnic and racial disparities. Aside from Hispanic female attorneys, law firm advertisements exclude all other ethnic and racial female representations.

In the following sections, I examine (a) attorney advertisements in terms of symbolic American values, (b) approaches used by attorneys when addressing the Hispanic community, and (c) advertisements addressing the Hispanic community

specifically in terms of the fear in the community regarding immigration, by informing ethnic clients that they are protected by the law in spite of their legal status.

(a) *Symbols of American Values*

Advertisement 5: Chad Golightly

Attorney Chad Golightly uses symbols that evoke nostalgia; for example, choosing a farm as location to deliver his law firm advertisement and surrounding himself with farming tools and horses in the background. This depiction is symbolic of an American lifestyle that may be gone or lost. Contrasting with his previous advertisements, in this commercial Golightly is wearing casual attire rather than a suit. He may want to portray himself in a look similar to viewers, rather than in his standard formal attire, as a way to gain their trust.

IMAGES FROM STORYBOARD



Figure 42a: Golightly is depicted giving his back to the viewer, watching a man riding a horse in the background.



Figure 42b: Attorney Golightly turns around and talks to the audience about his fees.



Figure 42c: He walks around the horse farm grabbing farming tools with familiarity conveying the impression that he belongs in that setting.



Figure 42d: Walking inside a horse farm, he explains that by reducing his fees he gained more friends. Here, he may be depicting his clients as friends.



Figure 42e: “I remember how close my family came to losing everything...” he says, emphasizing the overall nostalgic theme in this commercial.



Figure 42f: “My clients, my friends” a statement that gives the impression of a closer relationship between attorney and client that may be open to question.

The advertisement starts with a female voice over that announces, “A message from attorney Chad Golightly.” Attorney Golightly is positioned with his back to the audience, while watching a man riding a horse in the background. Once he is introduced, he turns around and talks to the audience about reducing his fees. He walks around the horse farm grabbing farming tools with familiarity, addressing the audience from medium shots that let the viewer see the surrounding. The camera follows him as he walks inside a horse ranch, conveying the impression that he belongs in that setting. He plays the part of the ordinary man, “just like you.” Inside the horse farm, he explains that by reducing his fees he had gained “more friends” (see figures 42a – 42f).

The text also emphasizes the theme of nostalgia. Golightly says, “I remember how close my family was to losing everything in...an accident...” Now he speaks from a close up, the viewer could see his eyes in close proximity and the sympathetic expression when he says, “And then I think of my clients, innocent victims with shattered lives.” Briefly,

he created the link between his own experience and that of the viewer. He stages a commercial to convey the impression that he might be the attorney who understands and wants to “save” those poor prospective clients struggling at the moment. He does not look down on his clients but does sustain the perception that people are weak, defenseless without an attorney; in essence he presents a patriarchal view of child-like clients. Overall, this commercial attempts to appeal to emotions. He is the sympathetic attorney who understands what it means to lose all one’s belongings. He wants to persuade the viewer that he will be on their side, understanding their plight, just like a friend. Then, the camera moves back to a medium shot. Still portrayed in the farm interior he rephrases the real reason behind the commercial: the business. He says, “I wanna make things clear, my 22% fee is for you, my clients, my friends.”

Advertisement 6: Chad Golightly

Attorney Golightly also portrays more contemporary symbols of American values and traditions. In this commercial, he displays a U.S. flag to create a link with those who identify with American traditions. The text enhances this message by describing his services with the words “strong,” “honest,” “experienced,” that represent core American values. Golightly is not the only attorney who uses American and legal symbols to convey representations of higher standards. Many attorneys display the colors red, white, and blue, as well as music and sounds that evoke American patriotic values (see figures 43a – 43c).

In this advertisement, attorney Golightly is seen in a medium shot that slowly pulls in as he speaks directly to the camera ending in a bust shot. The setting is his office. He sits behind his desk surrounded by frames and portraits, books on shelves in the

background, and the American flag on his right. His hands are placed in front of him, with his thumbs and index fingers in the shape of a diamond. As he speaks, computer graphics are added on the L/3 saying, “Strong, honest, experienced.” A golden legal scale, holding two letters G, is used as an icon that represents his law firm. At the end, we see the legal scale icon on the right side of the screen, and a fragment of the U.S. flag on the left. The words “strong, honest” are superimposed on top of the flag.

IMAGES FROM STORYBOARD



Figure 43a: Attorney Golightly’s portrayal is different from the previous advertisements where he is seen walking along policemen or at a ranch. Here, he is seen in his office with the American flag, family portraits, and books in the background. The scale on right side corner in the L/3 enhances his image of a serious competent attorney.



Figure 43b: The camera pulls in to a close-up that portrays attorney Golightly in the center of a frame with the American flag on the left and legal books on a shelf on the right side. This is an image symbolic of higher American values.



Figure 43c: His contact information juxtaposed with the legal scale and parts of the American flag.

(b) *Hispanic Proximity*

Advertisement 33: Miguel Gálvez

Attorney Miguel Gálvez talks to the audience in fluent Spanish while looking directly into the camera (see figures 44a – 44b). He uses the second person in a casual manner, talking to the viewer from a box within the frame as a friend, family, or acquaintance. The grammar in this example may be confusing. He uses the phrase, “mayor justicia” that translates as “greater, larger justice.” As such, he is using an adjective that implies order in comparison. The literal translation to the sentence “el precio más bajo no siempre significa mayor justicia” would be: “The lowest price does not always mean a/the greater/larger justice.” The meaning is understandable. He asserts that choosing an attorney who provides a reduced fee might come with the risk of not having the most efficient legal representation. The sentence may have been constructed in English, and later translated into Spanish: “lowest price does not mean more justice.”

IMAGES FROM STORYBOARD



Figure 44a: A male voice over says, “the lowest price not always means greater/higher justice.”



Figure 44b: The graphics say, call me and we will make justice. The verb “llámame” means call me using the pronoun you in informal manner.

He compares his services with other attorneys with lower fees; responding to them and allowing the viewer to decide based on the comparison. The commercial itself does not convey a reason for choosing him over other attorneys except for the fact that he is fluent in Spanish. Based on his pronunciation, Spanish may be his first language. He clearly targets the Spanish-speaking population.

Advertisement 34: Tingey and Tingey

The Law Firm Tingey and Tingey is introduced by a woman who talks to the viewer in Spanish. She uses formal language to address the audience, which indicates a respectful manner. However, she seems to be confused alternating formal and casual verb constructions. She says, “Y recuerda (casual) no importa su (formal) estado migratorio” (free translation: And remember, your legal status does not matter).

IMAGES FROM STORYBOARD



Figure 45a: A woman addresses the audience mostly in formal language. However, toward the last sentence, she addresses the audience using both: “Y recuerda (casual) no importa su (formal) estado migratorio”.



Figure 45b: Depiction of attorneys. They do not address the audience.



Figure 45c: Contact information in Spanish.

Following her performance, we see a shot of four attorneys who smile and look directly into the camera. There is no indication that they speak Spanish. The law firm services in Spanish are introduced by a third person not clearly identified as someone who works at the office (see figures 45a – 45c).

Advertisement 35: Ben Bateman

Attorney Ben Bateman talks directly into the camera, addressing the audience in Spanish. He is portrayed in a close up with a grey neutral background. A graphic in the L/3 contains his name and phone number. Computer graphics are added on the right side of the screen that repeat the information he says (see figures 46a – 46c). His tone of voice is pleasant, amicable, and easy-going. He talks to the audience as if he were talking to a friend. He says, “Please, call me.” He describes embracing many aspects of law and working with the client in person. He emphasizes representing the client in their own language. He addresses the audience using the formal Spanish pronoun, *usted*, consistently throughout the message.

IMAGES FROM STORYBOARD



Figure 46a: Attorney Bateman starts with the general assumption that in life there are always problems.



Figure 46b: He explains, some of these problems require the assistance of a lawyer.



Figure 46c: He offers his services in person, saying, “Yo quiero ser su abogado” (free translation: “I want to be your lawyer.”)

An indication that the attorneys speak Spanish fluently can be observed in the manner in which they read their phone numbers. Whenever possible, a Spanish speaker reads using two or three digits numbers. For example, Ben Bateman reads his phone number 7-9-6-52-21 as seven – nine – six – fifty two – twenty one. An English language speaker might read each digit. The same evaluation applies to advertisement #33, where attorney Galvez said his phone number 6-36-0-4-64 as six – thirty six – zero – four – sixty four.

Advertisement 42: Castroverde

Attorney Orlando De Castroverde addresses the audience in Spanish. The ad targets the Hispanic community that might identify with the family values portrayed in this commercial. Father and son are depicted in this commercial working together. First, we see a medium shot inside De Castroverde's office, with the father sitting behind his desk examining some papers, and the son standing next to him leaning toward his father and reading the same documents. Second, Orlando De Castroverde (son) is seen in a medium shot standing in front of a blue background. In post production, they added a background depicting a street with an accident scene. Last, we see a long shot of both father and son walking out of their office (see figures 47a – 47c).

The grammar in this advertisement might be confusing. The voice-over in this commercial states, “Si estás en un accidente...” (Free translation: if you “are” in an accident) which indicates they are addressing people who are currently involved in an accident. A more flexible verb would be “If you had an accident.” Attorney De Castroverde uses the formal second person (usted) to address the audience, alternating with the informal second person (tú) in a confusing manner. For example, he says,

“Lláname (casual)...Yo le atenderé (formal) y te conseguiré (casual) la mayor compensación” (free translation: “call me...I will take care of you and obtain for you the largest compensation.”) The message from both, the male voice over and attorney Orlando de Castroverde alternates between formal and casual verb and pronoun construction.

IMAGES FROM STORYBOARD



Figure 47a: Father and son work in the law firm.



Figure 47b: Attorney Orlando De Castroverde alternates using the formal and casual manner to address the audience in Spanish. Within a sentence, he says “yo le atenderé (formal) y te conseguiré (casual)...”

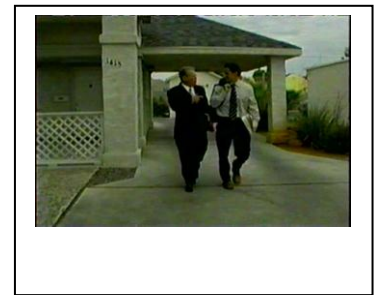


Figure 47c: Attorneys Waldo (father) and Orlando (son) De Castroverde depicted walking out of their law firm.

Advertisement 44: Castroverde

The setting and personal experience of attorney Waldo De Castroverde create proximity to help the viewer identify with and trust the attorney. The first location depicted in this advertisement is an exterior shot of the immigration office in Las Vegas. Computer graphics superimposed in the image say “Immigration problems?” (free translation). Next, we see a medium shot of attorney Waldo de Castroverde superimposed in post

production against an image of the immigration office. The next shots are similar to the example examined before in the advertisement #42. A medium shot of attorney Waldo De Castroverde (father) and his son working together; followed by a long shot of the two attorneys exiting their office (see figures 48a – 48c).

IMAGES FROM STORYBOARD



Figure 48a: The advertisement starts with an exterior long shot of the Immigration building in Las Vegas.



Figure 48b: “Integrity and trust” two descriptions used to introduce De Castroverde’s law firm services.



Figure 48c: Father and son depicted in this commercial (same as figure 47a).

Waldo De Castroverde asserts that he understands his clients for an important reason: he is an immigrant. Castroverde speaks with good diction and grammar. Spanish may be his first language. He understands his clients’ situation from his personal experience as an immigrant, he says, “Entender el proceso de inmigración, basado en la experiencia personal de su abogado es un arma poderosa. Yo soy un inmigrante como ustedes y entiendo sus necesidades y problemas. Llámeme” (free translation: To understand the immigration process based on the attorney’s personal experience is a powerful weapon. I am an immigrant like you who understands your needs and problems. Call me.) He expresses a deeper level of understanding that he calls “a powerful

weapon.” He refers to the audience using formal language consistent throughout his speech.

Advertisement 72: Glen Lerner

This commercial is saturated with stereotypes. Visually, a Hispanic family is portrayed at a party. They behave in an irrational non-realistic manner, overly happy and joyful. They are trying to hit a piñata but are not strong enough. Attorney Glen Lerner comes in, takes a stick from a woman’s hand, and breaks the piñata with one hit. Filled with joy the Hispanic family cheerfully jumps, laughs, and celebrates. Attorney Glen Lerner continues addressing the audience looking directly into the camera (see figures 49a -49k). In Spanish he says, “Cuando tú escoges un abogado para ayudarte con tu accidente de carro, escoge un abogado que piense en grande. Nosotros hemos representado la comunidad Hispana en Las Vegas por quince años. Nosotros conocemos sus problemas y como obtiene un mayor dinero por su reclamo.” (Free translation: “When you chose an attorney to help you with your car accident, choose an attorney who thinks big. We have represented the Hispanic community in Las Vegas for fifteen years. We know your problems and how to obtain more money for your claim”.) There are some grammatical problems in his speech when alternating the formal and casual second person.

Throughout the commercial, attorney Glen Lerner does not make eye-contact with the actors portraying the Hispanic family, although the actors looked at him celebrating. Lerner is dressed in a suit, so he is not “with them.” As a recreation of early Hollywood films where minority characterizations included a prejudicial attitude, this advertisement recreates similar stereotypes. According to Wilson and Gutiérrez (1985) “Generally, all ethnic minority characterizations in early films projected an attitudinal posture of White

superiority. That attitude revealed itself on screen through the portrayal of minorities as inferior in two major capacities: intellect and morality” (p. 78).

IMAGES FROM STORYBOARD



Figures 49a, 49b, 49c: A Hispanic family is celebrating a party with a cake, balloons and a piñata. Attorney Glen Lerner comes in and talks to the viewer. He does not make eye contact with people at the party.



Figures 49d, 49e, 49f: The happy family is depicted around the piñata. A blindfolded woman with the assistance of a man tries to hit the piñata but she is not strong enough.



Figures 49g, 49h, 49i: Attorney Glen Lerner pulls the bat from the woman’s hand and with one hit he breaks the piñata. The whole family jumps in joy cheering overly-excited.



Figures 49j, 49k: The family collects the surprise candy that fell from the piñata. Attorney Glen Lerner tells the viewer to call him to have a “pleasant surprise”.

The word “big” used in his English advertisement, such as “thinks big” “big help,” “as big as Las Vegas,” “...make big problems small” and the nickname “Heavy Hitter” are still used in this commercial either by translating the word to “grande” or keeping his nickname in English. According to Piller (2001) “Slogans, short phrases that accompany the brand name, are meant to encapsulate the identity or philosophy of a brand. Their status as identity markers is also reflected in the fact that they enjoy the same legal protection as the brand name and the trademark” (p. 160). The nickname in

English is part of Lerner’s identity and the associations with the word big either in English or Spanish are symbolic markers that transcend language.

(c) *Immigration*

Advertisement 39: Ed Bernstein

In Spanish, male and female voice-overs explain situations where a person might need an attorney. They speak using the formal second person. Attorney Ed Bernstein makes the closing statement in Spanish asking viewers to call his office. His choice of addressing the audience using the informal second person *Tú* as opposed to a more formal *Usted* is indicative of breaking the formality. Usually a conversation between attorney and client would be held using *Ud*. The verb “llámame” is an informal way of saying “call me.” The formal manner would be “llámeme.”

IMAGES FROM STORYBOARD



Figure 50a: Two construction workers depicted in this ad. One of them has suffered an injury in the job.

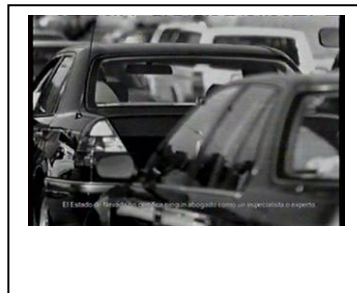


Figure 50b: The use of a telephoto lens brings the proximity of the cars closer than in reality exacerbating traffic jams.



Figure 50c: The graphics include a description of services written in Spanish: Work-related accidents, serious injuries, car accidents.



Figure 50d: Using the second person but using his business name, he tells the viewer to call him.



Figure 50e: Graphics with contact information adding that the first consultation is free.

This advertisement targets undocumented workers and people who may have been in a car accident explaining that they have rights regardless of their legal status. In the closing shot, Ed Bernstein is depicted next to a woman who may be a legal assistant, employee, or actor hired to play this part. She may be Hispanic or Hispanic descendent. The depictions of workers in black and white, followed by the two-shot of the woman and attorney Bernstein are symbolic of ethnic proximity that he uses to help build a bridge between the Hispanic community and his business (see figures 50a – 50e).

Advertisement 46: Montelongo

The advertisement portrays a driver who may be an illegal resident. He is driving without a license, without insurance, and gets involved in an accident caused by another driver (see figures 51a – 51c). This ad presents a situation of an illegal driver who worries not knowing what to do. A male voice over asserts that attorney Montelongo can help people involved in an accident regardless of their legal status and lack of insurance.

IMAGES FROM STORYBOARD



Figure 51a: A Hispanic man checks the rear and side mirrors before exiting a parking lot.



Figure 51b: A driver hits him and he examines the damage not knowing what to do, worried because he does not have a license or legal documentation.



Figure 51c: A voice over claims not to worry, regardless of the victim's legal status, attorney Montelongo can help.

In this commercial, I pay attention to the text. To target the Hispanic community, attorney Montelongo uses the name “la raza.” In Spanish, the male voice over says, “Estamos para servirle a la raza” (free translation: We’re here to assist ‘la raza.’) “La raza” is a popular name used in the Mexican community meaning *our folk, our people*. In spite of the proximity built through the use of the name “la raza,” the voice over maintains the formal language requesting the viewer to call using the third person (e.g., usted, and verbs used in the third person) that denotes a respectful manner.

Advertisement 70: Eduardo San Miguel

San Miguel expands on the dilemma faced by illegal immigrants who may resist contacting an attorney because they are afraid to reveal their status. He addresses the public talking to the camera and creating a personal connection with the viewer. He is fluent in Spanish, talks about his experience specifically with the Hispanic community, and urges viewers to call him immediately as needed. His perfect command of the

IMAGES FROM STORYBOARD



Figure 52a: He starts by indicating that a person's legal status is not an obstacle to defend his/her rights. His diplomas in the background make an echo with his rhetoric emphasizing his experience working with the Hispanic community.



Figure 52b: Turning his tone into a warning, he cautions not to wait to report a work-related injury. He tells the viewer that if they want to win against an insurance company to call his office.



Figure 52c: His contact information depicted in a sign.

language is an asset, however, when paying close attention to the rhetoric, a slight inclination to induce fear is noticeable. The advertisement starts in a bust shot of attorney San Miguel in his office. The choice of diplomas framed in the background help to establish his credibility making an echo with his rhetoric emphasizing his experience working with the Hispanic community. Depictions of diplomas are a common symbolic background in attorney advertisements. At the same location, the camera pulls out framing San Miguel in a medium shot. Turning his tone into a warning, he points a finger at the viewer and cautions not to wait to report a work-related injury (see figures 52a – 52c). He says, “Con mi experiencia defendiendo a la comunidad hispana, le quiero dejar saber que después de un accidente de trabajo a usted lo pueden despedir debido a su

incapacidad. No atropelle sus derechos laborales, siempre reporte su accidente inmediatamente.” (Free translation: “With my experience defending the Hispanic community, I want you to know that after a work-related injury you could get fired from your job due to your disabilities. Do not trample on your labor rights; always report your accident immediately.”)

Also noticeable is that he writes his name using the denomination for attorneys in Mexico and other Latin American nations. The abbreviation *Lic.* is short for *licenciado* meaning licensed in law. He communicates in second formal person, which represents the formal interaction between attorney and client.

Conclusion

Advertisements in this sample spoke primarily to viewers who speak English and/or Spanish. The exclusion of certain ethnic groups may reveal that when contacting an attorney, people make that decision based on the language shared, or that ethnic communities have internal sources for advertising legal services such as word-of-mouth and references. Television as a medium is not the best source of information to judge an attorney’s legal competence and experience. All it can do is bring to the viewer the image of an attorney or law firm that with time and exposure becomes familiar and may be recalled in time of need. If attorneys advertise to the Hispanic community in particular, it may be that this ethnic group has a need for legal representation either in immigration or personal injury cases. According to Wilson and Gutiérrez (1985), “Advertising, like mining, is an extractive industry. It enters the ghetto and barrio with a smiling face to convince all within its reach that they should purchase the products advertised and purchase them often” (p.128). Although advertising services is different than advertising

products, the simile that compares advertising with mining functions well to describe the reasons for advertising to the Hispanic community. The growing economic power and need in this community opens a window of opportunity for marketing law firm services.

Examples #43 and #45 used in this section present a father and son of the same ethnic background advertising their legal services. Visually and textually the format is similar. Yet, the father, Waldo de Castroverde, invokes more credibility to his lines by adding an empathetic phrase telling the audience, “I am an immigrant like you who understands your needs and problems.” According to Soto (2006):

Hispanics who are foreign-born have a completely different view of life in the United States than those who are U.S.-born....U.S.-born Hispanics’ view of life in the United States and their place in it is shaped by the location where they were born and raised, as well as historical, social, and political influences and their impact on individual experiences within the U.S. society....[O]nce foreign-born Hispanics decide to stay in the United States, they want to fit into mainstream society while at the same time retain their cultural identity at home. U.S.-born Hispanics are Americans and want to be recognized as such. They believe it is their right to be unconditionally accepted into mainstream society and to enjoy all opportunities afforded to Americans... (Pp.92-3)

Stereotypes in the media, such as those seen in example #76, may be interpreted as a humorous depiction. Attorney Glen Lerner is known in Las Vegas for his funny characterizations and humor. Yet, several elements converge that bring a presentation of self that may not be intended. Visual cues such as making eye contact, immersing in the activity of the actors portrayed (that are examined in another chapter as withdrawn) and being sensitive to the underlying effects of characterization that create a hierarchical order revealing intellectual, moral or physical strength superiority may not have the

desired effect. As Wilson and Gutiérrez (1985) point out, “Ethnically prejudicial stereotyping is debilitating to a society, especially one as culturally diverse as the United States. Not only does it work against common understanding and the recognition of the family of mankind, it provides succeeding generations of minorities and nonminorities alike with distorted self-images” (p.103).

Portrayals of immigrants facing the law, including examples provided above such as scenes of arrests, female bad-drivers, and others associated with either gender or ethnic divisions replicate stereotypes already known. According to Downing and Husband (2005) “...the notion of stereotype draws attention to the psychological dimensions of ethnic (or gender or other) image-formation and retention, and particularly to the intransigence with which people will often cling to these images in the face of all kinds of reality-tests and reality-shocks” (p.32).

CHAPTER 8

CULTURE OF FEAR

Barry Glassner (1999) introduces his book, *Culture of Fear*, with the following statement: “Why are so many fears in the air, and so many of them unfounded?” (p.xi). He examines the common American perceptions that we live in a society surrounded with drug users, escalating unemployment rates, vulnerable illnesses and spreading diseases coming from mutant bacteria, exposed to terrorism both foreign and local, neighboring potential murderers or predators, and panicking about high crime rates. Glassner (1999) does not encourage confronting or ignoring these fears, but suggests that “we often fear the wrong things” (pp. xvii-xviii). Our culture feasts on fears, recreating dangers and afflictions, teaching the wide range of tragedies that have happened, may happen, or might be just around the corner. Our fears *recreate* as they bounce back to us from daily interactions with others and with the media. From a very young age, we are taught to live with caution, to fear the unseen on the streets, the gaze of the stranger, the diseases that kill or get us sick, the effects of the sun, polluted air, and so on. Living with fear is a typical experience, it is part of commonsensical knowledge omnipresent in our lives through the discourse of others and replicated by us as words of wisdom and caution. According to Bauman (1997) it is hard to step outside of what we believe to be our typical experiences. He stated:

What we believe without thinking (and above all, as long as we do not think about it) is that our experiences are typical – that is, that whoever looks at the object ‘out there’ sees ‘the same’ as we do, and that whoever acts, follows ‘the same’ motives which we know from introspection. We also believe in another person’s place, we will see and feel

exactly ‘the same’ as he or she sees and feels in his or her present position – and that this feat of empathy may be reciprocated. (Pp. 8-9)

Our fears may be based on a “human urge to convert vague uneasiness into definable concerns, real or imagined” (p. xx) affirms Glassner (1999), who points at the media that “bombard us with sensationalistic stories designed to increase ratings” (p. xx). From the research conducted by Gerbner and Gross (1976) a constant preoccupation of researchers has been the images of violence and individual aggression on television and how these depictions affect viewers. In their well-known study *Living Television: The Violence Profile*, Gerbner and Gross (1976) state that, “Fear –that historic instrument of social control—may be an even more critical residue of a show of violence than aggression” (p. 178).

In the following sections, I examine common “atmospheres” (Bauman 1997) of fear, the discourse that replicates fear, violence on television programs, and how attorney advertisements create fear through text and images to gain audience’s attention and trust.

Contemporary Fears

The anticipation of risk and the recreation of rhetoric predicting possible threats are present in media and face-to-face interactions. Beck (2007) explains, “The category of risk opens up a world within and beyond the clear distinction between knowledge and non-knowing, truth and falsehood, good and evil. The single, undivided truth has fractured into hundreds of relative truths resulting from the proximity to and dismay over risk” (p. 5). In contemporary society, people live in fear “as a routine” informed of different sources of concern, “as diverse as health, parenting, crime, employment and transport” (Mythen 2004:1). Interpretations of what poses risk in our society are culturally determined. People deal with perceptions of risk that arise in contemporary

society, as a mix between what we know with the fears of the unknown. Quoting from Mary Douglas, Glassner (1999) explains:

Every society has an almost infinite quantity of potential dangers from which to choose. Societies differ both in the types of dangers they select and the number. Dangers get selected for special emphasis, Douglas showed, either because they offend the basic moral principles of the society or because they enable criticism of disliked groups and institutions. (Pp. xxvi; see also Douglas and Wildavsky 1982; Douglas 1992).

Similarly, Bauman (1997) explains that each society identifies those who could be identified as possible threats to common norms and deviate from the expectations of others posing a danger. Identifying those that separate from the norm as “strangers,” he explained:

All societies produce strangers; but each kind of society produces its own kind of strangers, and produces them in its own inimitable way. If the strangers are the people who do not fit the cognitive, moral, or aesthetic map of the world – one of these maps, two or all three; if they, therefore, by their sheers presence, make obscure what ought to be transparent, confuse what ought to be a straightforward recipe for action, and/or prevent the satisfaction from being fully satisfying; if they pollute the joy with anxiety while making forbidden fruit alluring; if, in other words, they befog and eclipse the boundary lines which ought to be clearly seen; if, having done all this, they gestate uncertainty, which in its turn breeds the discomfort of feeling lost – then each society produces such strangers. (P.17)

Diverse factors determine contemporary fears. These relate to world economic domination, working conditions across nations, deteriorating interpersonal associations, and unstable relationships that do not support individual needs. As in a reflection from

Durkheim's *Theory of Integration*¹⁶, Bauman studies global conditions in contemporary society that generate an "atmosphere of ambient fear" (p.21). These are:

(1) The world is in a state of disorder. The schema of nations divided in tiers according to their political and economic powers has pushed some nations to its limits. No longer capable of withstanding the alignment of transnational corporations and international institutions, countries are uprising against the political and economic impositions from the dominant nations. According to Bauman (1997), "Today twenty or so wealthy, but worried and unself-assured, countries confront the rest of the world which is no longer inclined to look up to their definitions of progress and happiness, yet grows by the day ever more dependent on them for preserving whatever happiness or merely survival it can scrape together by its own means" (p.22).

(2) The climate of instability reaches working conditions, from developing to developed nations, regardless of the kind of job and training that a person might have. Human rights no longer secure a person's place in the market, as new ventures develop and transform society. This instability affects people's rights and expectations for the future; people live in a world with no guarantees. Bauman (1997) explains, "Livelihood, social position, acknowledgement of usefulness and the entitlement to self-dignity may all vanish together, overnight and without notice" (p.23).

(3) Fear comes also from debilitated interpersonal relations. The bonds between individuals and family or neighbors have been replaced by a new lifestyle geared by consumption. Face-to-face interpersonal relations are "mediated now by technology"

¹⁶ According to Turner (1981), "The Key to understanding Durkheim's view of integration... is the inherent relationship between differentiation of roles and the increasing generality of moral evaluational systems. For as evaluational symbols such as values, beliefs, and religious dogmas become general and abstract, the major basis for integration in comparatively undifferentiated systems is undone" (p.385-6).

(Bauman 1997:24) having an impact on groups and associations that were once a source of identity.

(4) Another characteristic of the disorderly world of today is that human relations, as well as experiences, are “ephemeral” “Nothing can be known for sure, and anything which is known can be known in a different way...there is little in the world which one could consider solid and reliable” (Bauman 1997:24).

Discourse

Through language we communicate cultural ideas, beliefs, emotions, experiences, and knowledge. The discourse we use to communicate is “not transparent” (Saussure 1959) but embodies a whole structural system of representation of the dominant ideas in our society. According to Macnamara (2006), “Discourse refers to dominant ideas and viewpoints that emerge and become worldviews and consensus of knowledge and, in turn, form groundswells and tides of opinion that influence social and political landscapes... [D]iscourse includes ideas and viewpoints that influence and create social, political and economic conditions” (p.8). Messages, Hall (1973) reminds us “are polysemic,” they carry a number of possible meanings. It is in the structure of the message and the combination with other elements that a “preferred meaning is suggested” (Hall 1973:9). Baran and Davis (2003) claim that this is the focus of Neomarxist media theorists that want to identify how the media “provide the elite with a convenient, subtle, yet highly effective means of promoting worldviews favorable to their interests” (p.17).

The language that develops in society reflects the structures and limitations of its cultures. The communication of ideas makes sense when we share common meanings. After all, “we are born into structures of language and discourse, which pre-exist us and

turn us into particular kinds of subjects” (Blackman and Walkerdine 2001:25). However, the interpretations of language are not static and cannot be fully anticipated. Especially when referring to media discourse how people interpret messages reveal the power of active viewers. According to Hall (1973) “... –the reception- end of the communicative chain: there can be no law to ensure that the receiver will take the preferred or dominant meaning of an episode of violence in precisely the way in which it has been encoded by the producer” (p. 9). Hall identifies four levels of audience decoding. Quoting from Hall, Alasuutari (1999) explains:

- (1) *dominant or hegemonic code*: interpretation based on dominant shared meanings;
- (2) *professional code*: the broadcaster reaches for a message that has been already signified, s/he knows the implied meaning;
- (3) *negotiated code*: combines adaptive and opposing elements;
- (4) *oppositional code*: the viewer knows the intended meaning but decodes the message in a contrary or opposing manner. (P.4)

Language is therefore, a system of signs and symbols conveying meaning that reveals, reproduces, and represents dominant ideologies and structures in our society, but people are active interpreters of such meanings. The power of discourse resides in its ability to spread “meanings [that] serve the interest of that section of society within which the discourse originates and which works ideologically to naturalize meanings into common sense” (Macnamara 2006:8; see also Fiske 1995:14). At the other end resides the ability of the receiver to interpret and understand the message. “The denotative level of the televisual sign may be bounded within certain, very complex but limited or ‘close’ codes. But its denotative level, though bounded, remains open, subject to the formation, transformation and decay of history, and fundamentally polysemic: any such sign is potentially mappable into more than one connotative configuration” (Hall 1973:13).

Within these polar explanations the question posed by Glassner (1999) at the beginning of this section remains. Why then, if people are capable of forming their own opinions, scrutinizing discourse and discerning meaning, why do we leave in a society misinformed regarding fears and threats?

Mediating and Misconstructing Violence and Fear

The following text is an account of a television program where news reporter Geraldo Rivera talked about child abductions in 1997: ““This isn’t commentary, this is reality: they will come for your kid over the Internet; they will come in a truck; they will come in a pickup in the dark of the night; they will come in the Hollywood Mall in Florida. There are sickos out there. You have to keep your children this close to you...”” (Glassner 1999:64). The Gestalt effect disarms audiences’ power to confront the message. The constant bombarding of news programs that cover actual cases of children who disappear, as well as discourse that manipulates attention create anxiety. According to Glassner (1999), “the photo of a missing child immediately elicits feelings of guilt, fear, and fascination” (p.66) cards sent on the mail along with advertisements are likely to be seen rather thrown out. This is how advertisers manipulate attention. “Responsibility for perpetuating the confusion rests not only with journalists, celebrity advocates, and politicians but also with marketers who have devised a whole range of strategies for profiting from missing children” (Glassner 1999:66). At the end, the market profits from fear, and this is how and why fears are sustained in society. News programs bring information regarding the spread of disease, criminal activity placing camera right where tragedies are taking place, interviewing those immerse in difficulties.

The media succeed at two levels, not only informing and creating awareness, but also misconstruing realities to grab attention and place advertisements in between. An example of misconstruing information is perpetuating the association between mental illness and violence. The media is responsible for propagating fears toward the mentally ill, since media portrayals associate the mentally ill with violent behavior. In his study of 562 items ranging from television news programs, magazine articles, and children books Philo (1999) found that the media are responsible for “generat[ing] an intense hostility toward the mentally ill” (p.55) distorting “fundamental truths about mental distress” (p.60).

Quoting from Bandura (1994) and W. James Potter (1997), Baran and Davis (2003) identified how television viewers model experiences they see on television. These experiences have a direct link with episodes of violence. In this evaluation of attitudes, seven instances of violence portrayed in the media could be identified as inducing the viewer to imitate behaviors: (1) When aggression is rewarded it has a disinhibitory effect, while punished aggression inhibits behavior. (2) Negative or harmful consequences inhibit imitating such behavior. (3) If aggression has a motive it is considered appropriate and ends up being modeled. (4) Realistic portrayals influence real-world aggression, especially in boys. (5) Humor decreases violent behavior but influences viewers to follow. (6) Identification with the person acting violently, either because of his/her attractiveness or well-known status, induces copying the aggressive behavior. (7) Emotional appeal arouses aggressive behavior (Baran and Davis 2003:197-8).

Lawyer Portrayals and the Culture of Fear

Gerbner and Gross (1976) explanation of how television present stories with clear resolutions and a system of punishment and reward that do not coincide with reality is still true, especially, when it comes to current representations in attorney advertisements. Advertisements do not present the failures of attorneys to secure a person's fair compensations, or the tragedies behind personal injuries and loss. The depictions portray a fantastic ideal of what attorneys can achieve that resonates with Gerbner and Gross' (1976) early evaluation of television drama as "a mixture of truth and falsehood, of accuracy and distortion" (p. 179). Depictions of violence, drama, and fear present the structure of society in terms of power. Violence "demonstrates the rules of the game of power" (Gerbner and Gross 1976:183) between characters representing the dualities of good vs. evil, professionals and authorities vs. criminals and outlaws in television drama examined by Gerbner and Gross¹⁷ (1976). Similarly, in attorney commercials the powerful and capable are lawyers; the fearful, unaware and unprotected are the rest of us—television viewers.

Keeping the public informed of possible litigation is convenient for attorneys. According to Glassner (1999) "One pair of attorneys in Houston, John O'Quinn and Rick Laminack, mass-produced suits on behalf of more than 2,500 women. Described as 'the lawyers from hell' in a cover story in *Fortune* magazine, O'Quinn and Laminack grossed around \$100 million in implant settlements" (p.170). Lawyers know that the dividing line

¹⁷ *Cultivation Theory* proposes a link between frequent exposure to violence on television and a viewer's perception that the world is dangerous. This fearful perception is known as the *Mean World Syndrome*. According to this theory, "those who watch more television believe that there are more people employed in law enforcement, exaggerate the numbers of people involved in violence in a given week, overestimate their own chances of being a victim of violence, are more likely to believe they need more protection, and believe...the world is a mean and scary place..." (Signorielli 2005:45; see also Gerbner et.al. 2002).

between keeping the public informed and inducing fear may bring a profit. It is their use of the language and symbols, along with eliciting emotional responses, and how well commercials “express deeper cultural anxieties” (Glassner 1999:208) that transforms the drama of disease, illness, and injury into a profitable market opportunity.

The following are examples of TV commercial ads where lawyers portray scary scenes of accidents, people in distress, and overwhelming situations that induce viewers to believe that a car accident is a life changing experience. In fact, this may be the case depending on the seriousness of the accident. Because of the time constraints in advertisements, some of these depictions may saturate the viewer with images that convey anxiety and fear. Violence is not only expressed through images but also through sound effects that recreate and exacerbate the intensity and pain of suffering an accident. The language in some cases is attempting to make the viewer feel guilty, unprotected, or afraid. Once the character of the viewer is reduced to a fearful state, the image of the attorney as protector comes in to offer relief.

Advertisement 2: Attorney Chad Golightly

Attorney Chad Golightly recreates a scene of an accident by moving through different locations. First, the depiction starts with a two-shot of attorney Golightly and a police officer standing in a street with police car in the background with its lights on and off. Golightly introduces awareness of drinking and driving consequences. Second, a long shot appears of a police officer inspecting a body lying on the ground. The officer wears gloves and covers the victim’s body and face with a sheet. The image has a bluish tint symbolic of nighttime that amplifies the dramatic tone of the scene. Third, a close up of a police officer is superimposed talking to the viewer, while in the background another

police officer takes the victim inside an ambulance, shot with intense lighting and blue filters. The police officer talks about the victims, he said, "...the father and husband did not choose to die" making a dramatic and appealing statement. Fourth, we see an image of a young woman holding a photo of a car crashed, the camera zooms out leaving her image in the background. A close up of a police officer is superimposed. He explains that this young woman "did not choose to be on a wheelchair for the rest of her life." Fifth, back in the car accident scene, a man is portrayed being arrested and in handcuffs. A close up of a police officer is superimposed on the arrest image. The officer makes an appeal that manipulates viewer emotions with feelings of guilt and remorse, he says, "You'll always have the memory of the pain and sorrow you caused someone, when you choose to drink and drive." Sixth, a long shot of police officers and attorney Chad Golightly pleading the audience in a unison not to drink and drive (see figures 53a – 53f).

IMAGES FROM STORYBOARD



Figure 53a: Chad Golightly and a police officer in two-shot talking about drinking and driving. Police car in the background with lights on and off.



Figure 53b: Long shot (L.S.) with female police officer kneeling down and covering a victim's body in the ground. Use of bluish lighting and camera filter adds a dramatic tone.



Figure 53c: In the background, police officer taking a victim inside an ambulance shot with intense lighting and filters. In the foreground superimposed C.U. of a police officer talking about a father and husband who died.

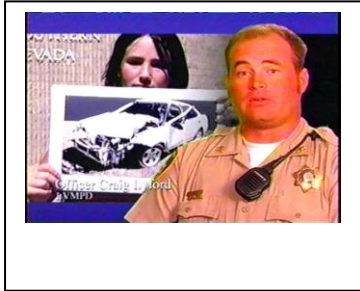


Figure 53d: In the background image of woman holding a photo of a crashed car. C.U. police officer saying, “This teenage girl did not chose to be in a wheelchair for the rest of her life.”



Figure 53e: In the background, a police officer putting handcuffs to a man arrested in relation to the accident. In the foreground, C.U. of police officer talking about the accident appealing to viewer emotions saying, “... you’ll always have the memory of the pain and sorrow you caused someone...”



Figure 53f: L.S. Starts with C.U. on Golightly; the camera pulls out to reveal a group of five police officers and Chad Golightly addressing the audience. Accident scene in the background. L/3 with police and legal system icons and symbols. Message saying *Don't Drink & Drive*.

The format of this advertisement is similar to a public service announcement creating awareness of the consequences of drinking and driving. Yet, this is a law firm advertisement that, seen in a Gestalt with the other Golightly commercials, fulfills the task of attracting clients to his business. The textual message induces fear, guilt, and is specifically targeting people who drink and drive. Golightly and police officers say, “you are deciding the fate of everyone you pass on the road,” “...death caused by drunk driver,” “they did not choose to die,” “she did not choose to be on a wheelchair,” “...pain and sorrow you caused.” Symbols of power, pain, and misfortune are combined in these representations. Representing legitimate state power, we see and hear police officers identified by name and title adding credibility to Golightly’s claim. The police car,

yellow tape around the area of the accident, a police officer wearing gloves and covering a victim's body, the ambulance near the accident, the photo of car crashed, scene of arrest, and handcuffs, are representations of authority and tragedy involved in a real accident scenario. Icons representing our legal system, e.g. police enforcement, and Golightly's logo are added to the last shot creating the impression that these two march along spreading the message to avoid drinking and driving.

Advertisement 92: Attorney Chad Golightly

This commercial by the same attorney Chad Golightly expands on the theme presented in the previous advertisement. In this commercial, he presents a story that begins at a bar. A couple of people are seen drinking and then we cut to a car accident scene. The man who was drinking at the bar is now under arrest for causing a deadly accident. Golightly sends the message along with police officers that people should not drink and drive. The images and sound effects in this commercial are more dramatic than the previous one #2. The number of images cutting from one close-up to the other depicted in a fast-paced editing is intentionally used to impact the viewer. Images of a grave and a family mourning in the cemetery are presented to the viewer briefly. The use of sounds effects adds drama to the depiction. The viewer hears a sequence of these sound effects one after the other: sound effects at the bar suggesting tension, sound of glasses making a toast, sound effect of tires screeching, sound of police siren, sound of camera clicks from police officers taking pictures at the accident scene, sound effect of flowers thrown on a grave, sound of a storm, and brief music in the background at the end (see sound effects script below). Golightly elaborates on a fast-pace montage that briefly depicts the fatal consequences of drinking and driving. He starts with a happy scene at a bar, out-of-focus close ups of

glasses in a toast, rapidly moves to an accident scene using extreme close ups of body parts that accentuate the dramatic impact. The text “drinking and driving is not a game” sends a clear message, but the use of audio, e.g., camera flashes, generate a more dramatic impact (see figures 54a – 54u).

IMAGES FROM STORYBOARD



Figure 54a: Attorney Chad Golightly walks in a bar talking to the camera. His name is superimposed on the lower third of the screen.



Figure 54b: A couple drinking beer, close-up of a woman wearing a black shirt.



Figure 54c: A happy man drinking at a bar.

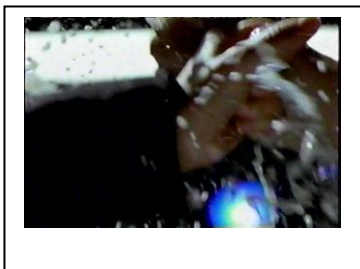


Figure 54d: A toast spilling a drink.

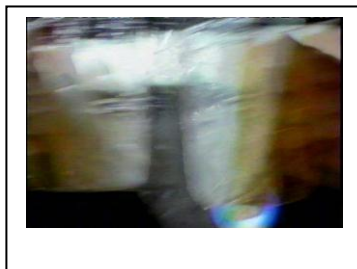


Figure 54e: An extreme close-up out of focus of the glasses may symbolize that by this time people cannot see clearly.



Figure 54f: An extreme close-up of a red car, as the driver(s) may have seen it at the time of impact.



Figure 54g: A close-up of the corner of the car hit in the accident.



Figure 54h: A close-up of a female hand lying on the road. She is wearing a black shirt suggesting she could be the woman at the bar. Her body is covered by a white sheet symbolic of her death.



Figure 54i: Police officers at the scene taking photos.

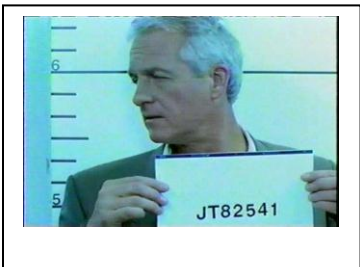


Figure 54j: The man who was at the bar is now posing in a profile for a mug shot at the police station.



Figure 54k: A police officer and the man arrested are seen in the background.



Figure 54l: A blue tonality adds drama; notice that this blue filter is also used on the shots depicting the arrest.



Figure 54m: A close-up over-exposed to light of the man arrested.

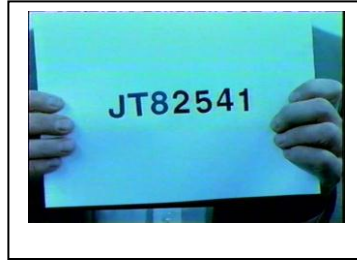


Figure 54n: An extreme close-up on his number.

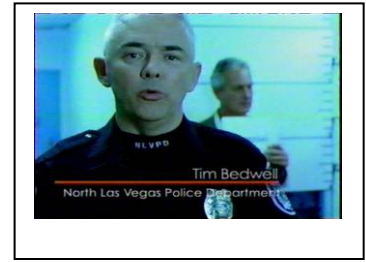


Figure 54o: Police officer says, "The choices you make can seriously affect others and put you behind bars".

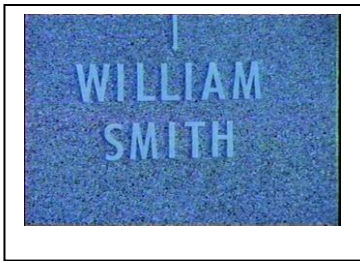


Figure 54p: Close-up on a grave.



Figure 54q: Out-of-focus shot of a girl putting flowers by the grave.



Figure 54r: The girl and a woman are seen in the background standing by the grave, while a police officer talks to the camera.



Figure 54s: Two policemen talking to the viewer. In the background, the viewer sees the car accident scene with an ambulance.



Figure 54t: A police officer talking to the viewer.



Figure 54u: Group shot with attorney Chad Golightly and police officers.

AUDIO AND SOUND EFFECTS SCRIPT¹⁸

INT. BAR – NIGHT

Chad Golightly paces in a bar.

CHAD GOLIGHTLY

(text)

A WOMAN #1 is seen drinking a glass of beer. She is in the company of MAN #1. He smiles and makes a toast.

AUDIO suggesting TENSION

SOUND of GLASS making a toast.

SOUND EFFECT of TIRES screeching.

SOUND of SIREN

CLOSE-UP on a hand lying on the road, suggestion that the rest of the body is covered due to fatal accident.

¹⁸ I wrote a script for each commercial included in this study. However, considering copyright laws protecting televised advertisements aired on television, I deleted the verbatim text and used only a few quotes to illustrate each example. In this case, I included only the audio cues to inform the reader of the sequence or sound effects used in this commercial.

SOUND of CAMERA CLICKS as police officers take photos of the accident scene and collect evidence.

SOUND of SIREN

INT. POLICE STATION – SAME DAY

MAN #1 poses for a mug-shot suggesting he has been arrested for causing the car accident where a person died. A police officer #1, (name omitted), talks to the camera.

SOUND of CAMERA CLICKS

POLICE OFFICER #1

(text)

SOUND of CAMERA CLICKS three times taking mug photos of arrested MAN #1.

EXT. CEMETERY – DAY

CLOSE UP on grave with the name (NAME OMITTED) pulls out to a LONG SHOT revealing a scene with GIRL #1 and her mother standing by the grave. Police officer #2, (NAME OMITTED), talks to the camera.

SOUND of FLOWERS that GIRL #1 throws on the grave site.

POLICE OFFICER #2

(text)

SOUND EFFECT like a STORM

EXT. STREET – NIGHT

Two police officers, POLICE OFFICER #3 (NAME OMITTED) and POLICE OFFICER #4 (NAME OMITTED) walk to the camera and talk to the viewer.

POLICE OFFICER #3

(text)

POLICE OFFICER #4

(text)

GOLIGHTLY

(text)

GROUP

(text)

MUSIC in the background.

(FADE OUT)

In 2006, the laws governing attorney advertising in Las Vegas were revised to allow more flexibility for attorney advertising. Effective on September 1, 2007, the changes reflected the Study Committee on Lawyer Advertising's (SCLA) concern with protecting the rights of attorneys to represent themselves and gain clientele. The former rules and regulations restrained attorney presentations of self by prohibiting false or misleading communication. For example, former rules declared that attorneys may not use "dramatizations," or "create an unjustified or unreasonable expectation about the results the lawyer can or has achieved"...and/or "contain a testimonial or endorsement" (NVBar.2007). Although throughout the years prior to 2007, these rules were consistently violated in televised attorney commercials, the former rules would have banned Golightly's advertisement. Viewers may assume from this commercial that attorney Golightly works directly with the police. Golightly employs the theme of fear in his depictions of crashes and death, while simultaneously invoking authority to reduce client fears and anxiety by suggesting symbiotic ties with law enforcement agencies.

Advertisement 15: Ellen Stoebling

In Ellen Stoebling's advertisement we hear the testimony of a woman who recalls the painful memories of her car accident. She describes her experience as "a life-changing injury" asserting that her world as she knows it "would never be the same." Her struggle was not only caused by injuries but by financial duress as well. She depended on her income and could not continue working. As she describes her struggle, the viewer sees a

composite of a car crashed and nurse at a hospital, also close-ups of car collision. Her descriptions are vivid and encourage the viewer to sympathize with the narration. Once on her side, the viewer hears that all her struggles came to an end when she contacted attorney Stoebling (see figures 55a – 55c).

IMAGES FROM STORYBOARD



Figure 55a: Beginning with a close-up on the reflection of a woman on the mirror the viewer is pulled into the story that started in the past.



Figure 55b: A composite of different images recreate the accident with a car collision, nurse pushing an injured person at a hospital, and extreme close-ups of cars. The L/3 contains the attorney contact information.



Figure 55c: The woman turns around to continue narrating the story facing the viewer.

Advertisement 63: Jan Paul Koch

The text in attorney Jan Paul Koch’s advertisement induces fear. It describes that having any kind of accident could be compared to facing “the fight of your life.” This message adds to all other attorney messages educating the public that an accident leads to unexpected confrontations added to the pain and difficulties of the accident itself. The only rational choice is to find an attorney who will be ready to “fight” on behalf of the client. The situation might be true. An accident could seriously affect a person’s everyday

IMAGES FROM STORYBOARD

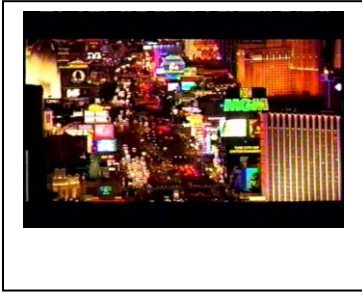


Figure 56a: A long shot of the well-known Las Vegas Strip.

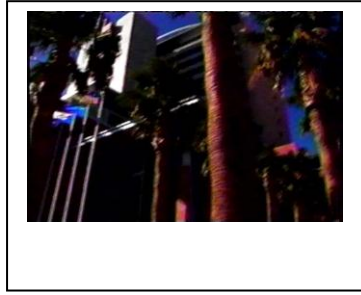


Figure 56b: A view of the Regional Justice Center in Las Vegas, symbolic of the personal injury cases that are brought to court.

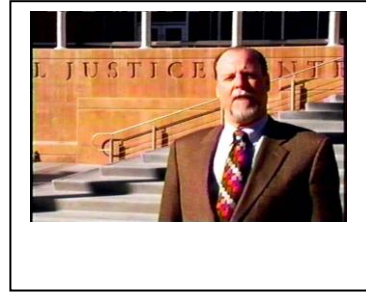


Figure 56c: Attorney Koch poses outside of the building saying he is “not afraid to go to court.”

life. As attorney Koch says, “[a person] will need help with medical care, medical bills, property damage and auto repair...” As if these problems were not enough, attorney Koch mentions that conducting a legal procedure in the court system might be another difficult step (see more discussion on chapter 9). He clarifies, “I’m not afraid of going to court for you if that’s what it takes to get you justice,” which the viewer might interpret as another obstacle in the aftermath of an accident that some other attorneys might avoid or fear (see figures 56a – 56c).

Advertisement 77: Montelongo

Attorney Montelongo targets illegal residents who may already be afraid of facing the law. In his message he asserts that people have rights in spite of their legal status. He says, “No dejes que tus patrones te asusten con que te van a correr y ven a verme, o llámanos...” (Free translation: “Don’t let your boss threaten with firing you and come and see me, or call me...”)

First, we see a still shot of a car so badly damaged that the image is difficult to distinguish. Second, a close up of a man shows him being arrested. The

IMAGES FROM STORYBOARD



Figure 57a: This car is so badly damaged that the image is difficult to distinguish



Figure 57b: A faceless man is arrested but the viewer does not know if he is arrested for a car accident, or for his legal status. The graphics on the top of the screen mention that the attorney is an expert in work-related injuries or car accident.



Figure 57c: An extreme C.U. of the handcuffs adds drama to the scene. The ad says illegal immigrants have rights despite their legal status. This faceless depiction represents the fear immigrants have of being identified as illegal.



Figure 57d, 57e, 57f: These images of an empty Courtroom and podium may not represent a concern for many people. But it may represent the fear of facing the law for illegal immigrants. The graphics that run at the top of the screen mention expertise in Family Law, Criminal Cases, Arrest Orders, and Immigration. Attorney Montelongo also offer to prepare taxes for a fee starting at \$40. =

viewer sees the image of a man with both hands placed behind his back while a police officer places handcuffs on the man's hands. The image is framed from below the man's

neck to his waist; and the police officer's torso allows the audience to recognize his uniform. The viewer does not know if the man is arrested in relation to a car accident or his legal status. Computer graphics on the top of the screen mention that the attorney is an expert in work-related injuries or car accidents. Third, an extreme close-up of the handcuffs adds drama to the scene. The man arrested is still faceless, this depiction may be intentional. The ad says illegal immigrants have rights despite their legal status. The faceless depiction and extreme close up of the handcuffs may represent the reality of what illegal immigrants perceive as a threat: facelessly confronting the law and the police. Fourth, three consecutive long shot images show an empty courtroom and podium extend the theme of facing justice (see figures 57a – 57f).

Advertisement 94: Richard Harris

A democratic society is, ideally, a well-informed society. Richard Harris advertisement alerts people that a product called Stand 'n Seal may have dangerous consequences (see figures 58a – 58c). However, is this message intending to educate and alert the public or is this an attempt to gain profit from people's suffering? People who have used this product may have second thoughts: Have I been exposed to dangerous fumes? Am I sick? Should I sue? Is a family member in danger for using this product? According to Eldridge (1999) "A responsible media has to deal with propaganda or rhetoric which (wittingly or not) may confuse or mislead the public, and with the growth of real knowledge about diseases. This calls not only for investigative journalism of a high caliber but also for journalists who have a sound understanding of the nature of scientific activity" (p. 126). Attorneys share the same responsibility when informing the public of such diseases or hazards, rather than taking advantage of an opportunity to make a profit based on

people’s concerns and lack of knowledge. The possible symptoms after exposure to this product are “dizziness, coughing, shortness of breath, and vomiting.” The manner in which this law firm delivers the message may be indicative of a quest to mislead people into thinking that this is an opportunity to sue (see chapter 9).

IMAGES FROM STORYBOARD



Figure 58a: Attorney: Richard Harris alerts the public that this product has been recalled.



Figure 58b: People exposed to fumes when using this product and experienced these symptoms: dizziness, coughing, shortness of breath, vomiting, can sue.



Figure 58c: People who have used this product may now be concerned that they have been exposed to danger.

Advertisement 100: (Unknown) Law Firm

An unknown law firm delivers a similar message to Richard Harris example #94. The advertisement starts with images of a cemetery and a grave at night. The camera moves in as the cemetery gate is opened. The viewer enters in a creepy cemetery surrounded by fog. The camera moves in and stops making a close up on a grave with the letters RIP engraved in a stone grave. The graphics superimposed on the grave mention four medicines used for depression that have been connected with “violent behavior and suicide”: “Lexapro, Zoloft, Prozac, and Effexor.” A graphic in the L/3 and a male voice

over informs this law firm's phone number, 1800-LAW-FIRM, which covers the identity of the attorneys (see figures 59a – 59b). The sound effect of an ambulance used in this advertisement complements the morbid theme symbolizing accident or illness.

IMAGES FROM STORYBOARD

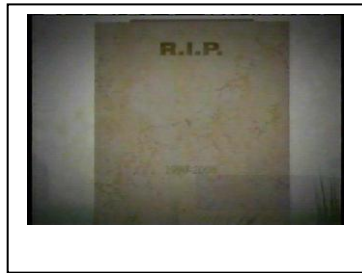


Figure 59a: The camera enters through a cemetery gates and stops at a grave



Figure 59b: The graphics superimposed on the grave mention four medicines used for depression that have been connected to suicidal behavior.

Conclusion

Through images, audio, text and a combination of these three, attorneys replicate the drama in scary situations, warning of what might happen if they do not hire attorney's services. The symbolic representations include scenes of death, car crashes, accidents, ambulance and paramedical personnel in action, symbols that convey negative results, handcuffs, scene of arrest and others. Some of these portrayals are enhanced with the use of sound effects and presented in fast-paced commercials replicating violent scenes. When attorneys chose to portray accidents, they are not alerting people of their legal rights, or bringing some concern over laws affecting injured people, *they are recreating fear*. They show the audience depictions that no viewer would like to experience. It is important to pay attention to the uses of violence and recreation of fears in the media

because these types of messages promote a certain agenda. Someone wins from inducing and sustaining fear. In this case, once people identify with the situation, sympathizing with the victim(s), the attorney presents him/herself as the solution. Baran and Davis (2003) advocate the Neomarxist critique that “Mass media can be viewed...as a public arena in which cultural battles are fought and a dominant or hegemonic culture is forged” (Baran and Davis 2003:17). In my evaluation, I point to the inducement of fears that benefit attorney business and reflect the cultural arena that provides a one-sided logic. What are the alternatives to resist hegemonic or dominant ideologies? How is the viewer informed of alternatives in case of an accident or when facing bankruptcy? What kind of education is the public exposed to that contrasts and assists him or her to measure the benefits and alternatives to contacting an attorney?

The Gestalt effect of these advertisements supports a culture of fear, where the public is constantly bombarded with car crash scenes in fear that that might happen to them. The public is also educated that in the event of an accident their best option is to find an attorney, otherwise, their rights could be compromised. The missing ingredient is the public’s legal education. With no sources of information through community programs where legal education is imparted, viewers may opt for the only possible alternative suggested on television, that is, to call an attorney.

CHAPTER 9

ETHICAL AND LEGAL ISSUES

Attorney advertisements highlight several problems in our society. First, they bring up the idea that some laws need revision (e.g., bankruptcy laws) or have been changed and these revisions or changes affect people who may need to find an attorney to fight for a right that of which they may not be aware. Second, they point to institutions that conflict with a person's rights, e.g., insurance companies that attempt to manipulate information or deny a person's right for fair compensation in personal injury cases. Third, lawyer advertisements describe that other attorneys may not act in a professional manner, do not handle their cases in person, or do not have the experience needed to handle a case. Suggested in these arguments is the depiction of a viewer who is misinformed and unaware of options and a legal system that does not serve the public unless attorneys mediate between clients and the law. This is not an individual's personal crisis, but a reflection of a complex legal system where most people lack the expertise and knowledge needed to understand the law. This depiction suggests "legal knowledge" is kept obscure and turgid, protected from reaching the general public, like religion in the Middle Ages.

Central in my analysis is the idea that the choice of discourse attorneys use shapes the meaning of their advertising messages. The language used in attorney commercials follows the conventions used in marketing—e.g., the ads play on emotions, by seeking to garner trust and respect from the viewer. Perhaps surprisingly, there is little legal talk about fees, legal strategies, or client rights in the attorney-client relationship. The reason might be that little information could be communicated within the time limitations of a televised commercial advertisement. Therefore, a law firm advertisement's main

characteristic is that it lacks legal language. What most advertisements convey are depictions of the fragile prospective client and the well-informed, savvy, expert attorney or law firm who stands as the knowledge keeper and mediator of justice. These ideas do not exist only in commercials but mirror some aspects of a socially-constructed *American* reality. According to Macnamara (2006), “Discourse is a language or system of representation that has developed socially in order to make and circulate a coherent set of meanings about an important topic area. These meanings serve the interest of that section of society within which the discourse originates and which works ideologically to naturalize meanings into common sense” (p. 8; see also Fiske 1995:14). The absence of legal language in law firm advertisements mirrors the wider social expectations about how the law is adjudicated: legal knowledge is the realm of attorneys and the legal networks; outsiders understand that the exercise of their rights is mediated through them, even when personal rights are guaranteed as a most sacred and basic property that any individual holds in a democratic society.

In this chapter, I examine law firm advertisements featuring scenarios indicating that the laws need revisions, problems with the IRS and insurance companies, and problems that clients might encounter when contacting *other attorneys*. I question attorney ethics when misleading portrayals might misinform the public, representations that transform an injury or bankruptcy into an opportunity to make a profit, attorneys competing with each other by lowering fees and other tactics that might be seen as a sign of the commercialization of law, and law firms scouting or inducing people to sue. Altogether, this section calls into question attorney ethics and the commercialization of the legal system as depicted in attorney advertisements.

Laws Need Revision

One attorney brings to surface problems in bankruptcy law. Others promise relief from debts, stop payments, and alternatives to paying the IRS. The larger question is whether or not these options are available to every person and under what conditions. I chose to include these advertisements in this chapter because although there is an ethical component in the message, the larger question for me is: What does the law say regarding these issues? Do some attorneys work around the law? If so, under what circumstances? And, how is this affecting our society?

Advertisement 30: Phillip Goldstein

This ad, for Phillip Goldstein, points out to a larger problem with system of law: bankruptcy laws need revision. It includes some misleading information. For example, he mentions that “Congress has designated his office a debt relief agency.” Is this title exclusive to his office? He supports his claims using titles and associating himself with larger institutions. In my research I found that all bankruptcy law attorneys and/or financial services that assist people facing bankruptcy are designated with this title. According to Lasky (2006) the newly enacted Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) defines:

...a debt relief agency as ‘any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110...’. The definition of debt relief agency does by its terms encompass both non-attorneys and attorneys and specifically all attorneys who represent consumer debtors. (See also Markus 2008; Leibowitz 2009)

Attorney Goldstein introduces his services by moving from the general to the specific. He states that Congress recognizes problems in bankruptcy law and makes the

case specific by saying that these are problems that he can resolve. He describes the problematic of bankruptcy law by using a comparison along with a warning, “Do not let your case get lost in the bankruptcy mill...” implying that without an attorney people would be at loss.

In recent years, bankruptcy has been a problem affecting many families. A basic search online to see the available options of those facing the possibility of declaring bankruptcy produced a variety of information. Blogs and different websites provide information on the difference between filing bankruptcy under Chapter 7 or Chapter 13. It is often described as a scary process and most websites end up suggesting that people should consult an attorney, especially when the person has assets.

The statement “Bankruptcy law is still an option...” along with his opening statement that Congress recognizes problems in bankruptcy law encourages the assumption that filing for bankruptcy may not be available in the future, or might be under revision and those conditions may not be favorable. This representation might be misleading and misinform the public about the law, the law firm’s designation as debt relief agency, and the time people have to act claiming bankruptcy.

Visually, the commercial starts in a close up of attorney Goldstein. Subsequent images include either a close up or medium shot of him at his office, and computer graphics with text that goes along with the arguments in his speech. First, a close up of attorney Goldstein, with graphics in large fonts running up-and-down on his left, saying, “Bankruptcy.” This title allows the viewer to identify his area of expertise. He indicates, “Congress decided that bankruptcy law is in need of changing, but people still have financial problems, and I can still help you.” The emphasis on *still* have problems, and

IMAGES FROM STORYBOARD



Figure 60a: He starts by mentioning Congress' position in regards to bankruptcy law. The title on the right side of the frame identifies his services and visually guides the viewer into his area of expertise.



Figure 60b: Four statements on the left side saying: “The U.S. Congress has designated our office as a debt relief agency,” “We help people file for bankruptcy under the Bankruptcy Code”, “And I have proudly been helping people since 1992”, “Bankruptcy is still an option.”



Figure 60c: “Foreclosure, repossession, and garnishments can still be stopped”, he says. The emphasis on *still* is another indication that he urges the public to act now, fast, before the laws change.



Figure 60d: Notice the money in the background surrounding his C.U. He draws an analogy between calling now, acting fast, and making a profit in a very subtle but symbolic visual persuasion.

still can help you, leads viewers to believe something is about to change that might adversely affect them in the future. Mentioning *Congress* as mediator of these decisions gives him more credibility to his argument (see figures 60a – 60d).

Second, we see a medium shot of him at his office sitting behind his desk. He continues talking to the camera, saying, “I work with these new rules and I work with the legislature on new laws protecting your property. Foreclosures, repossessions, and garnishments can still be stopped.” In this text, he conveys the impression of being more knowledgeable since he is efficient at *working with legislature on new laws...* The emphasis on the word *still*, keeps pounding the message that things are about to change. On his left, the viewer sees four statements written against a grey background, saying, “The United States Congress has designated our office as a debt relief agency,” “We help people file for bankruptcy under the Bankruptcy Code,” “And I have proudly been helping people since 1992,” “Bankruptcy is still an option.” In this text, he appeals to higher authorities, aligning his business with the symbolic meaning behind Congress, as the ultimate institution of law and order in American society. This message sounds as if Congress has chosen his business (among others) with a special denomination, which, might not be the case.

Advertisement 54: Haines & Krieger

In this advertisement a woman receives a phone call from a creditor; she is overwhelmed with debts that she cannot pay. The issue here concerns the repercussions in society when people get into the circle of debt living a fictitious life they cannot afford. The law firms suggest that declaring bankruptcy might be useful for some people. However, this option only places a band-aid on people’s situation because they still would not be facing the

IMAGES FROM STORYBOARD



Figure 61a: A woman answers the phone. On the other line, a creditor requests payment and threatens to garnish her wages if she does not pay.



Figure 61b: She puts a label on the creditor. Instead of referring to him as a creditor, she calls him a “harasser.” Therefore, waving responsibility for her actions and turning the blame on the other person. He is no longer the person who lends her money that she probably requested, he is now a harasser, an ugly person who interrupts her at work and threatens her.



Figure 61c: Relieved she thanks the attorneys for stopping the “harassment.” Does this mean she does not need to pay back the money she owes? The ad is not clear about this, but suggests all debt is taken care of. Chapters 7 and 13 are mentioned in the graphics at the beginning of the commercial.

problem of accelerated consumption¹⁹. The advertisement’s text and images do not address the problem of accelerated consumption in particular; nor does the ad suggest that the woman depicted is in debt because of uncontrolled spending, I am simply using this example to bring attention to a larger problem in society.

Visually, a woman is seen working at her office. She answers the phone and a small box within the frame is visible on the upper left side of the frame. A man playing the role of a creditor is on the other line, he says, “You’re past due. Pay us our money or we’ll garnish your wages.” The woman is concerned with the manner in which a creditor

¹⁹ I do not suggest that it is a lawyer’s duty to help the client move away from accelerated consumption. I am indicating that in some occasions the problem is deeper than the solution offered.

asks for payment. She looks directly into the camera, facing the viewer, and asks, “Do I have to be harassed by these creditors?” (see figures 61 – 61c).

A male voice over answers the woman’s question about being harassed by creditors, saying, “No, call the law offices of Haines and Krieger.” Speaking from a small box within the frame, visually relieved, she says, “Thanks, Haines and Krieger, for stopping the harassment.” With this phrase, she changes the labels and takes away responsibility for debts. The transition from “lender” to “harasser” victimizes the person who contracted debt and penalizes the lender for wanting to be paid. The creditor was once someone who helped a person get out of debt, or be able to afford what the person could not otherwise pay. In the ad, by changing the label to “harasser,” she takes away the responsibility she has toward paying back her debt, and puts the blame on the lender. This person or institution is now a harasser, a predator. The change in the language and the label used in this case is key to understand the larger problem: That people get into unreasonable debts that they cannot pay, seduced by the alternatives that overconsumption bring.

According to the federal Fair Debt Collection Practices Act, or FDCPA, collectors cannot contact people at their jobs if that is prohibited by the employer (Nolo 2010), which is depicted in Haines and Krieger’s ad. In addition, they cannot use threat, claim that a person owes more, add fees or charges, or use excessive phone calls (Nolo 2010) which are nonetheless suggested in the commercial. The steps to follow, as suggested in the online article, are: to tell the collection agency to stop calling; to keep a thorough written account of the phone calls; to file a complaint with the Federal Trade Commission. Once the FTC is involved, the collection agency may even cancel the debt

(Nolo 2010). However, further advice suggests that a person might even sue a debt collector for harassment, and may need a lawyer. Several websites mention steps on how to file bankruptcy, including tips, fees, low cost books and references to guide people who want to file bankruptcy by themselves. Many websites also provide warnings suggesting that people need to consult with experienced attorneys, and to steer clear of non-lawyer agencies that prepare documents for a fee. Information from the State Bar of Nevada is less comprehensive than other states, for example, the State Bar of California answers many questions in a 16-page pamphlet (see State Bar of California 2010). The State Bar of Nevada provides a two-page pamphlet that ends up in a suggestion to contact the Lawyer Referral Information Service (State Bar of Nevada, 2010c).

Advertisement 60: Roni Deutch

In this advertisement a person who owes money to the IRS is described as the victim of the IRS. The advertisement consists of two graphics with written text and a voice over reading the same message on the screen. The message says, "...Over the last 14 years, [Roni Deutch law firm]... helped their clients save millions of dollars with the IRS. You shouldn't be another IRS victim..." The text may be controversial; the labels fluctuate from person who owes money/debtor to the IRS, to victim of the IRS²⁰. Also important is the message seen in the lower third (L/3) of the frame (see figures 62a – 62b). Some exceptions written in small fonts reveal that attorney Deutch may not represent the client in person, that exceptions are allowed in some states, and other

²⁰ This perception might be shared by other people. On February 18, 2010, a man, Joseph Andrew Stack, committed suicide by crashing a plane against an office of the IRS in Austin, Texas. In a letter, he expressed his anger to the IRS and said that violence "was the only answer" (<http://thinkprogress.org/>). After the attack a number of websites included opinions in favor of Stack calling him "a patriot" and a "hero" (<http://www.washingtonpost.com/wp-dyn/content/article/2010/02/22/AR2010022201433.html>) mostly from groups that support right-wing anti-tax rhetoric. Others depicted him as a terrorist comparing his actions to the tragic events of September 11th.

exclusions that might not be visible to all viewers or may not call attention unless viewers record the commercial and freeze the image to more closely examine the content.

Her ability to reach a number of people in different states having problems with the IRS is indicative of a dysfunction of the Internal Revenue Service to provide alternatives, and a system where alternatives are mediated by *attorneys only*. The fact that Deutch operates in many different states is evidence of how lucrative it is to find the flaws in our legal system that some attorneys exploit for their own benefit.

IMAGES FROM STORYBOARD



Figure 62a, 62b: The disclaimer in the lower third says, This LAWYER ADVERTISEMENT for services is offered by the Law Offices of Roni Lynn Deutch, 4875 -- Ave. N. Highlands CA, 95660 (800) 384-7257. Our attorneys are licensed by California, Arizona, Wisconsin, or the Washington D.C. bar and may practice before the Internal Revenue Service in all 50 states. The services...advertised may be performed by lawyers other than Ms. Deutch. No representation is made but the quality of the services to be performed is greater than the quality of services performed by others. Testimonials or endorsements do not constitute a guarantee, warranty, or prediction regarding the outcome of a particular...

Insurance Companies

Advertisement 31: GGRM

From this commercial, the viewer is led to understand that a car accident is a fight between attorneys and insurance companies for money. Insurance companies do not want to pay; attorneys fight to make them pay. In this battle, there are three missing

components: the law, information, and the victim's rights. If there is a persistent problem between injured people and insurance companies that could only be mediated by attorneys, then this an indication of a flaw in the judicial system that allows people to remain unprotected. One by one, attorneys Greenman, Goldberg, Raby, and Martinez alternate their presentation, saying, "...we don't play games..." "we stand up to insurance companies..." "we fight..." "we'll get you the money you deserve" (see figure 63). These statements make a case about the fragile situation of clients. Laws should protect the rights of accident victims, not protect the unethical behavior of insurance companies or the legal industry.

IMAGE FROM STORYBOARD



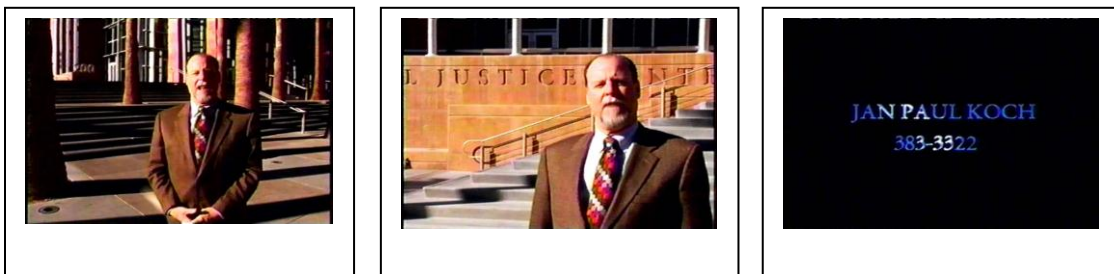
Figure 63: Attorneys Greenman, Goldberg, Raby and Martinez depicted in this image. They alternate their presentation.

Advertisement 63: Jan Paul Koch

Attorney Jan Paul Koch poses in front of the Regional Justice Center in Las Vegas. He is portrayed in a medium shot, and the camera moves closer as he speaks ending in a close up (see figures 64a – 64c). He affirms that he, “[is] not afraid to go to Court...if that’s what it takes to get justice.” Placing attention to the construction in this sentence, I make an emphasis in the word: afraid. This word reflects the current situation in the Las Vegas

court system. Judges want to reduce the number of cases that reach court and set up precedents to avoid having our court system crowded with demands. They are sometimes drastic and end up penalizing victims of an accident when their cases are brought to court. However, with more delineated regulations and laws protecting injured victims, cases would not need to reach court.

IMAGES FROM STORYBOARD



Figures 64a, 64b, 64c: Attorney Jan Paul Koch depicted outside of the Regional Justice Center where cases of personal injury are brought to Court.

It is not always true that all accidents end up being “the fight of your life” as attorney Jan Paul Koch indicates. But this statement points to a larger problem in society. Why does it have to be? This is an indication of a flaw in the system that does not provide the appropriate channels for fair compensation unless a person injured in an accident finds an attorney. The lack of laws and regulations facilitate attorney business, and at the same time, lawyers are needed because of flaws in the system that allows insurance companies to get away with not providing fair compensation. Every actor in the process is interested in grabbing a piece of the cake: attorneys want their 1/3%, doctors—who work along with attorneys—want to charge large bills turning the victim’s injuries

into an opportunity for exploratory long-term profit. The victim's body is *commodified* in the process as some physicians, knowing that the costs could be applied to a claim, request unnecessary use of X-rays and medical treatment.

Advertisement 93: Chad Golightly

“Trust the insurance companies? I don't think so!” With these words, attorney Chad Golightly warns the audience that they could be cheated, and deprived of their right to a fair compensation if they contact the insurance company after an accident. The problem is why are insurance companies getting away conducting unethical business? Why is the mediation of an attorney the only alternative to achieve a solution? According to Golightly, “[Insurance companies]...spend billions employing investigators, claim adjustors, attorneys and even medical doctors. You're already a victim of your accident. Don't let the insurance companies make you a victim again.” This claim presents a picture of society where people are defenseless against a circuitously corrupt system that perpetuates the role of citizens as victims, where the laws are non-existent, and the power of insurance companies is such that people need to fence themselves through an attorney.

IMAGES FROM STORYBOARD



Figure 65a, 65b, 65c: Attorney Golightly talks to the viewer from his office. The main theme in this commercial is to question the fairness of insurance companies. The word “fairly?” is added and left as a question for the viewer.



Figure 65d, 65e, 65f: The question marks added in the background on the left side of the screen along with the question “insurance companies” insist on questioning the fairness and trustworthiness of insurance companies. These question marks are replaced on the next figure by dollar symbols, as attorney Golightly affirms that insurance companies spend billions hiring professionals to create a problem for accident victims.



Figure 65g, 65h, 65i: Contrary to other attorneys that use dollar symbols to seduce people with the promise that they will gain more money for their clients, attorney Golightly uses these symbols in reference to the money insurance companies invest and save when working against accident victims.



Figure 65j, 65k, 65l: “...Don’t let the insurance company make you a victim.” The “victim” is the person whose trust has been violated by unethical insurance companies.

The setting in this commercial is attorney Golightly's law firm. He is portrayed in a close-up that alternates with graphics that appear on the screen matching his speech. As he explains that the insurance companies would not behave in an ethical manner, the word "Fairly?" appears as a question for the viewer. As he makes remarks that insurance companies would rather invest in preventing a fair compensation the words "Insurance companies?" appear on the screen. In the next shot, attorney Golightly is depicted talking to the viewer. Around his image, we see dollar symbols superimposed on the left side of the screen; a legal scale icon is also visible on the L/3. These dollar symbols refer to the money insurance companies invest in preventing fair compensation. Contrary to other attorneys that use dollar symbols to seduce people with the promise that they will gain more money for their clients, attorney Golightly uses these symbols in reference to insurance company greed (see figures 65a – 65l).

Advertisement 21: Shook & Stone

Shook and Stone Law Firm presents a problem that occurs in Nevada with the social security system. One of the attorneys says, "In Nevada, six out of ten people who apply for social security disability benefits are denied. If you cannot work because of a permanent disability or illness, call us..." "Well guide you...and give you the money you deserve... We'll make the law work for you." The message is simple, targeting those who identify with problems related to social security compensation (see figures 66a – 66b).

Although not exclusive to this law firm, this example brings me to some questions regarding the purpose behind this message: First, in his message the attorney from Shook and Stone says they will "...find a doctor for their claim..." but he does not explain the

IMAGES FROM STORYBOARD



Figure 66a, 66b: One of the attorneys from the law firm Shook and Stone talks about the flaws in social security services. Another attorney joins him for the presentation of their services. There are two occasions where I question the purpose of this message: first, he offers doctors for the person, but does not explain the costs. What is a prospective client agreeing to pay for these services? How is this beneficial for either attorney and client? Second, the part of the message saying “the money you deserve” turns a claim into a financial opportunity where the viewer is turned into a consumer commodified based on a disability.

costs. What will the prospective client agree to pay for these services? What portion of the person’s social security benefits would be destined to compensate for legal and medical services? Second, the attorney mentions they will get the “money [the prospective client]...deserves” turning a claim into a financial opportunity where the viewer is turned into a consumer whose disability is commodified.

Beneath the text is the assumption that attorneys *know* something that six people out of ten do not know. With no revisions and/or more regulations to the social security system, people who might indeed need to receive benefits will continue being denied, and this goes back to the obscurity and privilege in the language of law that remains in attorney’s domain when it should be accessible to all people.

Advertisement 97: Jay Short

Attorney Jay Short is depicted in a close up pointing a finger at the viewer. He warns and informs the public that there are laws they may not be aware of, or could be denied of rights for not being informed. His intention is to target injured workers. In subsequent shots, he is seen in the foreground, with alternating images of construction workers at different locations in the background (see figures 67a – 67f). Visually, he calls the attention of workers employed in jobs that present a risk. Textually, he says, “You may be entitled to benefits you’re not even aware of. Not acting in time may prevent your claim from being accepted or cost you additional benefits.” This is another example of the obscurity in the legal language and hegemonic power of lawyers to understand the law and public rights in a manner that lay people may not comprehend.

IMAGES FROM STORYBOARD



Figure 67a: Attorney Jay Short targets injured workers. His name and symbol are superimposed on a map of Nevada.



Figure 67b: With this image of construction workers in the background, he calls attention of those who work in jobs that present a risk.



Figure 67c: Another image of construction workers seen from below display the risks.



Figure 67d: “You may be entitled to benefits you’re not aware of...” is part of the message. People’s lack of knowledge is what attorney Jay Short brings forth in this advertisement.



Figure 67e: The lower third emphasized that his area of expertise is “worker compensation” exclusively. This emphasis is different to other law firms that portray themselves as experts in various areas of law.



Figure 67f: The image in the background depicts a man standing on a roof another instance that displays risk.

Problems with Other Attorneys

There are limited opportunities for clients to go after an attorney who had not provided the services promised, yet there are all sorts of regulations and clauses in attorney contracts that clients need to adhere and abide to when hiring an attorney. When attorneys talk about *other* lawyers they present the viewers with representations of the limitations and dysfunctions in the legal system.

Advertisement 8: Anthony DeLuca

Attorney DeLuca brings up a question about the larger society in his advertisement. He asserts that he provides more services to his clients than other attorneys. He says “I still don’t understand why people go to my competitors and pay the same amount of money and have to do all the paperwork themselves including their credit report.” This kind of rhetoric brings attention to the legal profession as a business. Some attorneys are getting away providing less, while charging the same. If attorneys charge a flat fee or percentage,

IMAGES FROM STOYBOARD



Figures 68a, 68b, 68c: The advertisement starts with a depiction of a person being pulled in a wagon, representing what the voice over explains is a person who went to consult another attorney and was “taken for a ride.” Attorney DeLuca explains he offers more services to his clients than other attorneys for the same amount of money.

then, De Luca brings a valid concern about the amount of work that a client has to provide for services s/he is paying the attorney to fulfill, but if the client pays by the hour, s/he might be saving some money by doing the work. DeLuca presents this advertisement bringing a valid opinion regarding lawyer services that are not regulated by a higher authority or institution, making the client vulnerable (see figures 68a – 68c).

Advertisement 13: Cassady Law

When the Supreme Court made the final decision to allow attorney advertisements, the decision took into consideration the public’s interest. People have the right to know the legal opportunities available and the costs. In this commercial, attorney Jason Cassady informs the viewer, who may be considering writing a will or trust, that his prices start at \$99.00 (see figure 69). This information allows people to have an approximate idea of the costs in this type of procedure, and based on this, s/he can compare with other alternatives. There are no indications based on this commercial of other hidden or additional fees. In contrast to other law firms, attorney Cassady fulfills the initial

IMAGE FROM STORYBOARD



Figure 69: Attorney Cassidy and family depicted in this commercial.

Supreme Court intention to impart knowledge to viewers regarding legal options and costs.

Advertisement 16: Dallas Horton

In his commercial, attorney G. Dallas Horton says, “You are entitled to patience and respect, you should never be made to feel that what you say is unimportant or a burden.” He is basically implying that other attorneys could make a person feel that what they are saying is unimportant or a burden. In this case, he is bringing a concern about the behavior of other attorneys, similar to the claim presented by attorney De Luca (see advertisement #8). This is an example that brings us back to question how attorneys are

IMAGE FROM STORYBOARD



Figure 70: Attorney G. Dallas Horton makes an important claim that leads the viewer to question: are attorneys treating clients with respect? If not, why not? And what are the venues or higher institutions where a client can raise a claim?

treating their clients, and that these interactions are not observed by a higher institution or authority. He brings up the issue of respect, and this has an effect on the overall dynamic of the interactions between lawyer and client (see figure 70).

Advertisement 28: Bourgault & Harding

Attorney Sam Harding brings up a problem: that when going to a law firm people do not talk to attorneys, they may talk to legal assistants and their cases are handled by clerks. This is a larger problem in society since these practices are common. Most attorneys advertise using the first person, e.g., “I do...I will take care...I make...I am...” When attorneys advertise their law firm and say, “I will fight for you...” they are talking on behalf of their firm, but usually, they do not personally represent or meet all clients who go to their office. Many attorneys do not have personal contact with clients. The use of first person in attorney advertisement is misleading. Sam Harding claims, “When you retain Bourgault and Harding, you talk to a real attorney...” The emphasis on *real* attorney denotes a comparison to other businesses where the attorney who advertises will not represent a client in person, but delegate authority to legal assistants or clerks (see figure 71).

IMAGE FROM STORYBOARD



Figure 71: Talking to the viewer from his office, attorney Sam Harding invites the viewer to retain his services where the client will interact with “a real attorney” not a legal assistant or clerk as in most cases.

Advertisement 30: Goldstein Phillip

In this commercial, the screen is divided in two sections. The left side has written information, the right side depicts a medium shot of attorney Phillip Goldstein sitting behind his desk in an office. In this section, I am particularly interested in describing the manner in which he compares himself to other attorneys. First, he starts by mentioning Congress, and the new rules in bankruptcy law that he works with protecting people's properties. The graphics add to his experience mentioning he has helped people since 1992. After asserting his experience he warns people not to "let [their] case get lost in the bankruptcy mill or with some inexperienced attorney." He explains his qualifications, establishes his reputation by alluding to higher institutions, such as Congress and legislation, to later diminish other lawyers in comparison. He warns the public not to trust in "inexperienced" attorneys (see figure 72).

Goldstein's text says that he has been helping people since 1992, but what are his results so far? The argument presented in this text leads me to extend a question that concerns law firm performance: How do we know if a lawyer has rendered proper services? How could people be informed regarding law firm success, or if they have been accused of malpractice? In Las Vegas, there are no agencies or sources that keep attorney records open to the public. The legal business has been efficient at concealing instances of malpractice, with the exception of cases that drew media attention. For the benefit of the public, statistical records of progress, successful litigation, average prices, misbehavior, accusations of malpractice, fee disputes, and other actions should be released to the public.

IMAGE FROM STORYBOARD



Figure 72: Attorney Phillip K. Goldstein talks about other “inexperienced” attorneys, a valid concern, but one that brings forth the obscurity in legal proceedings. Are there any public records of attorneys brought to sanctions? Physicians who face sanctions can be found in different websites, and patients can access this type of information. But there are no resources to communicate law firm misbehavior.

Advertisement 31: GGRM

This law firm GGRM (Greenman, Goldberg, Raby, and Martínez) compares its expertise to others in a subtle manner. When attorney Gabe Martinez says, “We don’t play games when it comes to your personal injury case.” This assertion led me to question, *and, who does?* The rhetoric implies the irresponsible behavior from other attorneys. If they are the ones who “do not play games when it comes to personal injury...” there must be one or some who “do play games.” The negative presentation suggests the existence of a positive, in this case, we can interpret that they are introducing the idea of one or some attorneys who do play games, and they in comparison, deny being one of them. When they describe themselves as “serious attorneys” they extend on the characteristics that separate them from those who are not serious (see figures 73a – 73c).

Although other attorneys are not physically depicted in this commercial, the implication behind this text compares the seriousness and professional manner of GGRM with the playful or irresponsible conduct of other law firms. This statement reinforces my

IMAGES FROM STORYBOARD



Figure 73a, 73b, 73c: Attorneys at GGRM depict themselves as serious attorneys who fight on behalf of their clients. “We don’t play games...” “Get serious attorneys”, they say, which by comparison urges they questions: who play games? Who are the “not” serious attorneys? More importantly, how can the public be informed of the records that point to those attorneys who are not behaving in an ethical “serious” manner?

concern for proper avenues to make records of attorney misbehavior public, so that people could make an informed decision when contacting a lawyer. If other professionals, such as, physicians and professors, are evaluated, why are lawyers an exception?

Advertisement 35: Ben Bateman

Attorney Ben Bateman from the law firm George D. Greenberg describes embracing many aspect of law. The computer graphics depicted on the left side of the screen lists, “Family Law, Immigration, Criminal Cases, Car Accident, Traffic Tickets, and other Legal Issues.” The emphasis in his presentation is that *he* could represent a client in Spanish and in person. He says, “Yo soy Ben Bateman y quiero ser su abogado. Le atenderé personalmente en su idioma” (free translation: I am Ben Bateman and I want to be your lawyer. I will talk to you personally in your language.”) Does it mean he can

embrace all the areas of law he mentions in this commercial²¹? Or is he acting as a hook to bring Hispanic clients to the Law Office of George D. Greenberg where different attorneys with different areas of expertise can provide such variety of services? If so, this message is deceiving (see figures 74a – 74c).

IMAGES FROM STORYBOARD



Figure 74a: The graphics say that he will attend the client in person. In the script he adds he speaks Spanish.



Figure 74b: The variety of areas of expertise that he covers are: Family Law, Immigration, Criminal Case, Car Accident, Traffic Tickets, and other legal issues.



Figure 74c: In this graphic, the name of the law firm is stated as George D. Greenberg.

Advertisement 40: Eric Palacios

In the first shot, we see a split screen with two talking heads on the phone. On the left is the Hispanic client, on the right the Caucasian American attorney. The storyline attempts to portray a satire, mocking the misunderstanding that may occur as a result of the language barrier, and difficulties of a client when communicating with an attorney who

²¹ When searching for more information regarding attorney Ben Bateman’s areas of expertise, I found he is currently working at another law firm. In a brief description regarding his practice (accessed online on October 20, 2010) he wrote, “Hi, I’m Ben Bateman. As an attorney, I enjoy being able to help people find solutions to their problems. I practice Bankruptcy Law and Criminal defense...” (Palacios and Associates Law Firm 2010).

does not speak Spanish fluently. In Spanish, the client asks about the status of his case. The attorney on the other line does not speak Spanish. With a heavy accent, the attorney asks the client “to wait” (In Spanish: “espera”) but with his accent it sounds as if he were saying “it’s a (female) dog” (In Spanish: Es perra). Annoyed, the client responds, “What? What dog?” Covering the phone, the attorney calls Maria, who the audience may assume is a Hispanic legal assistant. With regret, the client hangs the phone saying, “I should have called Eric Palacios” (see figures 75a – 75c).

Maria comes to represent more than the disparity in the language, Maria represents the common practice in law firms to delegate the responsibility of dealing with insurance companies on behalf of a client. This is not exclusive of the Spanish speaking community or legal firms, this is a larger problem. Maybe the point is that clients deserve to speak to a lawyer if law firms retain 1/3% of any moneys awarded in case of accidents. Yet, this is not enforced. The initial consultation may be provided by an attorney, if at all, but most paper work and communication with the insurance companies may be relegated to legal clerks.

Eric Palacios brings up the misunderstanding that may occur when a conversation needs to be mediated by a third person. This advertisement mocks attorneys who do not speak Spanish. The client’s tone is irritated when the attorney cannot understand Spanish; he overreacts to the attorney’s response. I say this is an overreaction, because the proximity between the words “espera” (wait) and “esperra” interpreted as two separate words “es” “perra” (it is a female dog) within that context could be easily understood, and would not be the source of confusion in normal realistic circumstances. This is intended to be a satire that exaggerates the confusion in the language.

It is likely that if the roles were reversed, and the commercial portrayed a client who calls the attorney's office speaking English with a heavy Spanish accent and the attorney gets irritated by his pronunciation, we would end up calling this, *discrimination*. But in this representation, attorney Palacios attempts to make a joke mocking attorneys who do not speak Spanish fluently. He targets the Spanish-speaking audiences who understand by this commercial that misunderstandings may occur when two people communicate in different languages. Palacios presents the idea of the language barrier forgetting that if the roles were reversed this same action would be called discrimination.

IMAGES FROM STORYBOARD



Figure 75a, 75b, 75c: A client calls his attorney and talks in Spanish to request information regarding his case. The attorney does not speak the language and calls his legal assistant to mediate the conversation. Eric Palacios brings up the misunderstandings that may occur when a conversation needs to be mediated by a third person. The client regrets not calling Palacios from the beginning. This is another example where the message is that attorney-client interaction is important.

Advertisements 48, 49, 58: Weiss & Weiss

Weiss and Weiss present a sequence of three commercials aired during a period of time that answer basic questions about bankruptcy. A series of commercials can end up informing the public. It is a bit condescending given the simplicity of the information;

yet, television attorney commercials are not particularly useful tools to inform the public regarding their legal rights. The pattern of presentation in the three examples is very similar. It starts with a question posed by a female voice over regarding bankruptcy. The attorney is seen in his office sitting behind his desk, posing in a ¼ profile as if answering to an interview. He provides a brief explanation, and the female voice over repeats the phone number.

In the first example, the voice over asks, “Bankruptcy, is it difficult?” The attorney responds his law firm makes the process easy, “starting with a free consultation and ending in debt relief...” (See figures 76a – 76c). In the second example, the voice over asks, “Bankruptcy, will I lose everything?” The attorney responds, “No, you can protect your assets... Even if you’re behind in payments, the court offers plans that will allow you three to five years to get caught up, you may even be able to lower your car payments...” (See figures 77a – 77c). It is not clear to the viewer if these options apply to all cases. The answer is useful to get an impression, but may be overly simplistic reducing all cases to similar outcomes. In the third example, the voice over asks, “Bankruptcy, why should I file?” The attorney answers, “Control... You file to eliminate bills, credit cards and medical bills to protect your home, your vehicle, your paycheck, even your business. Come in for a free consultation and meet with me personally...” (See figures 78a – 78c).

These commercials end up presenting more information than others since these exemplify common questions that viewers might be asking themselves. This is a best attempt to use the limited time in televised advertisements to convey some legal information. Yet, the format of television ads where information is delivered in a few

IMAGES FROM STORYBOARD

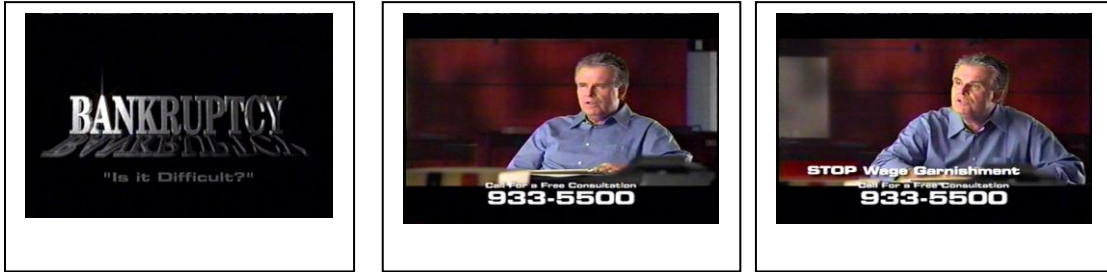


Figure 76a, 76b, 76c: Female voice over says, “Bankruptcy? Is it difficult?” Lawyer says, “Not at all. We make the process easy for you. Starting with a free consultation and ending with debt relief...Our job is to make you aware of your options...”



Figure 77a, 77b, 77c: Female voice over says, “Bankruptcy? Will I lose everything?” Lawyer says, “No, you can protect your assets. You can stop foreclosures, repossessions, wage garnishments, IRS levies...Come in for a free consultation and meet with me personally...”

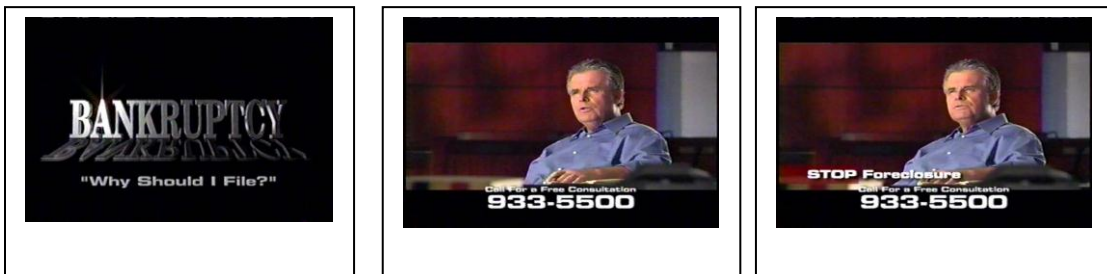


Figure 78a, 78b, 78c: Female voice over says, “Bankruptcy? Why should I file?” Lawyer says, “Control. You file to regain control of your life...You file to eliminate bills, credit cards and medical bills to protect your home, your vehicle, your paycheck, even your business...”

seconds is not conducive to such task. Television as a medium is not the best alternative to inform the public regarding their legal rights. The idea behind law firm advertisement is to create familiarity with the name, logos, and personality of the attorney, these characteristics become familiar after some exposure²². As stated before, attorney advertisement on television could rarely inform the public of their legal rights, not because lawyers avoid this purpose, but because the limitations of time are not conducive for this purpose.

Advertisement 55: Krieger & Associates

In this commercial we see the medium shot of a man in an office. He is not identified as lawyer or spokesman but he speaks on behalf of the law firm, he says, “Meet with an actual attorney.” He asserts that an “actual attorney” can explain clients their rights and restore their lives, possibly what most people facing bankruptcy might expect. He is also pointing to a problem exposed before, bankruptcy laws may change soon, he says, “Stop foreclosures, repossessions, the IRS and creditors...Bankruptcy laws will soon be changing, so call us today.” This information emphasizes immediacy and clients are urged to act fast (see figures 79a – 79b).

Advertisement 88: Vicente Ochoa

Similar to attorney Eric Palacios who offers his services in Spanish, Vicente Ochoa claims that he will talk to his clients in person and in their language. Ochoa’s slogan reinstates that he talks to the client in person; he repeats this information four times

²² Cooper (2005) advises attorneys about *brand marketing* defining this as, “a way of communicating about your [legal] firm that helps your target audience understand and remember more about your firm” (p.198). Cooper lists the elements of brand identity in a similar fashion as product marketing campaigns: (1) Brand name: What is your firm called? (2) Logo: What graphic identifies your firm? (3) Fonts: What fonts will convey your message? (4) Tagline: What additional line of text will convey the brand message? (5) Color Palette: What colors are right for your firm and audience? (6) Design Elements: What design elements will be used to reinforce the brand and assure identification of the product with your firm? (p.200).

IMAGES FROM STORYBOARD

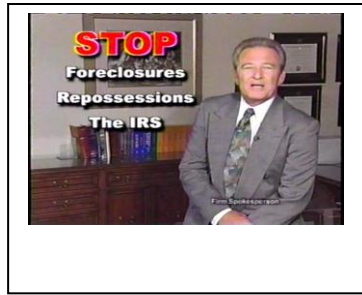


Figure 79a: The man in this image presents the opportunity of stopping foreclosures, repossessions, and the IRS with the assistance of an attorney.



Figure 79b: Krieger and Associates, identified as bankruptcy attorneys. The viewer is not informed of the role of this man in relation to the law firm. He may be an actor, firm’s spokesman, or attorney. The new attorney advertisement regulations allow law firms to exclude providing this information.

during the advertisement. First, we see a medium shot of a woman depicted as a legal assistant or receptionist working in an office. She is talking in the phone answering to a client saying, “La cita es mañana a las 2:00 de la tarde y recuerde traer su reporte policial del accidente, y por supuesto que va a hablar directamente con el abogado Vicente Ochoa.” (Free translation: “The appointment is tomorrow at 2:00 p.m. and remember to bring your police report of the accident, and of course, you will talk directly with the attorney Vicente Ochoa.”) Second, she turns to talk to the camera and says that Vicente Ochoa’s slogan is to talk to the client in person. She suggests making an appointment and repeats that the attorney will talk to the client in person. Third, attorney Vicente Ochoa is seen in a medium shot standing against a wall with bookshelves. He says that upon making an appointment, the client will talk to him directly and in their language (see figures 80a – 80c).

IMAGES FROM STORYBOARD



Figure 80a: This woman is depicted as a legal assistant or receptionist reminding a client to bring his/her police report. She affirms that the person will talk to the attorney directly.



Figure 80b: The woman turns to talk to the camera and says that Vicente Ochoa's slogan is to talk to the client in person. She suggests making an appointment and repeats that the attorney will talk to the client in person.

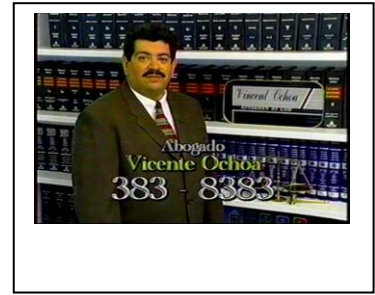


Figure 80c: Here, attorney Ochoa says that upon making an appointment, the client will talk to him directly in their language (Spanish).

Advertisement 101: Ron Israel

This advertisement starts with a reminder that driving in Las Vegas is becoming more dangerous. The first image depicts a street with traffic with superimposed graphics saying, "Driving in Las Vegas is getting dangerous..." Next, we see a medium shot of a woman and a box inside the frame depicting a car and graphics superimposed saying, "Where can you turn for help?" The next image depicts a close up of a Yellow Book and a hand leafing through the pages. The superimposed graphics pose the question, "Leafing through pages of ads?" (see figures 81a – 81c).

In this advertisement, the law firm points to the problematic of not knowing who to call when a person needs an attorney. Would the person use the yellow pages? This commercial advises to call Ron Israel, but contacting him or other attorney who advertises would lead to the same results. Viewers do not "know" an attorney simply

because he becomes a familiar face through the use of televised advertisements. If so, the attorney who advertises the most would win the viewer's trust simply because his image has been more widely exposed. Exposure on television does not guarantee results, in the same manner that the yellow pages cannot accomplish this objective. It is imperative, as understood through the language of attorneys to encourage the release of public information regarding attorney activities, accomplishments, and the quality of their services.

IMAGES FROM STORYBOARD

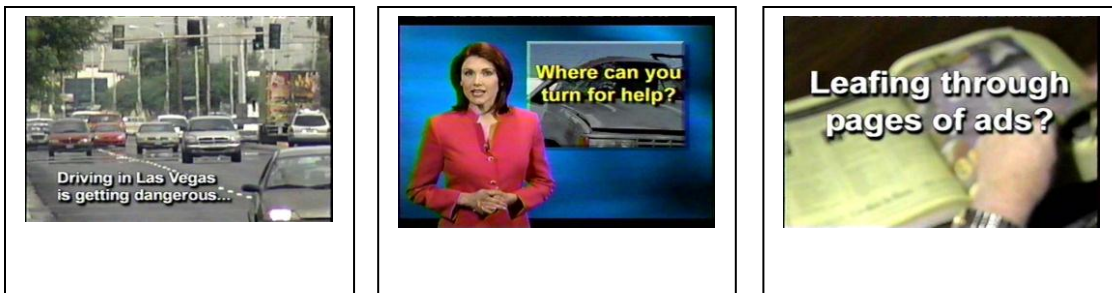


Figure 81a, 81b, 81c: This advertisement starts by warning Las Vegas' residents that driving in this city is becoming more dangerous. A woman asks the viewer, "Where can you turn for help?" The next image shows a close-up of a person's hand browsing through the Yellow Pages. This is presented as a bad alternative since the Yellow Pages would not inform the viewer, but a television advertisement does not inform the public either. Television advertisements make the image of an attorney visible, but cannot account for the quality of his or her service.

Advertisement 107: Virginia Hunt

Attorney Virginia Hunt targets prospective clients in work injury cases. She starts in a bust shot and as she speaks the camera moves to a close up. The proximity of the camera emphasizes her intention to portray a sympathetic role, she says, "even though your work injury wasn't your fault, your employer or adjustor can cost you even more harm in

handling your claim...” In this sympathetic portrayal, she induces fear, indicating that the choice of following an employer or adjustor’s advice could be harmful (see figures 82a – 82c). However, choosing a bad attorney could be equally harmful and our society does not provide for open avenues to request information regarding quality of services. Word of mouth is useful, if the person knows another who had a good attorney. But if the person does not have references, what alternatives could our society offer?

IMAGES FROM STORYBOARD



Figure 82a, 82b, 82c: Attorney Virginia Hunt starts by talking the role of the client, understanding his or her situation by saying “...your work injury probably wasn’t your fault...” and she continues by saying that employers and adjustors can cause more harm, possibly given the protection of their own interest or their lack of knowledge. She explains that her fifteen-year expertise has been beneficial to injured workers. How could the public confirm such information?

Misleading Portrayal

In the following examples, the ads seem to be scripted or portrayed in a manner that may be confusing for the viewer. An example is when the format of the ad is presented as a public service announcement rather than a commercial ad. Attorney Chad Golightly presents a series of advertisements where he is depicted with police officers; the ad resembles a Public Service Announcement (PSA) when it is really an attorney ad.

Advertisement 2: Attorney Chad Golightly

Attorney Golightly extends his image by associating himself with a group of police officers. In the first shot, we see attorney Golightly posing in a two-shot with a police officer identified by name in the lower third (L/3). In subsequent shots, different police officers talk to the audience about the consequences of drinking and driving. In the last image, we see a long shot of attorney Golightly along with the police officers depicted in the commercials. Golightly says, "Please join me and Southern Nevada law enforcement" immediately after, the group says in unison, "Don't drink and drive."

The characteristics that police officers represent are transferred into him by association. The officers' testimony is symbolic of being at Golightly's side and vice versa. His portrayal is that of an honest, serious attorney whose professional attitude is clean and self-righteous. He wants nothing else, but to abide by the law and share this message with the rest of society. He offers more than attorney services, in fact, attorney services are not even mentioned; he wants to prevent drinking and driving. Although it is delivered as a PSA encouraging the prevention of drinking and driving, this is really an attorney commercial. This type of portrayal is misleading since it is educating the public to believe in Golightly's association with the police department. He places himself at the side of the law, as if he has some preferential connection with the police. His law firm symbol is seen as an icon in the lower third next along with police and legal symbols (see figures 83a – 83c).

IMAGES FROM STORYBOARD

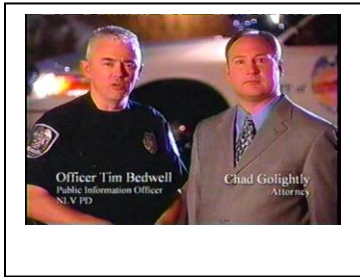


Figure 83a: Chad Golightly and a police officer in two-shot. L/3 with Golightly's name.

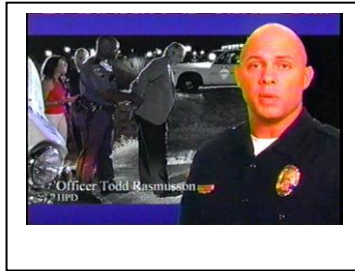


Figure 83b: In the background, image of person arrested. In the foreground, C.U. of police officer talking about the accident. L/3 with name and identification.



Figure 83c: L.S. Starts with C.U. on Golightly and the camera pulls out to reveal a group of five police officers and Chad Golightly addressing the audience. Accident scene in the background. L/3 with police and legal system symbols. Message saying *Don't Drink & Drive*.

Advertisement 22: Dallas Horton

Attorney Horton makes an emphasis that if he takes the case to court his firm would allow a jury of eight people. The text is not clear. It is not specified the conditions by which a case can be taken to Court, under what conditions a jury is necessary, or the number of members that may vary according to case. So, when he says that he allows a group of eight jurors...is he misleading the public by not providing full information on the conditions? He is not saying up to eight people or if this occurs in specific cases. Literally, he says, "...[W]hen I can't make an agreement with the insurance companies or the attorneys, we file a lawsuit, we take it to Court and we allow a jury of eight people to tell them what's reasonable for my clients..." People may have a sense of safety in his

words, thinking that a jury of eight people and the number of attorneys involved may be productive (see figure 84).

In general, when cases go to court the legal fees increase, in most cases from 1/3 to 50%, this is not mentioned in the commercial. In addition, he is referring to cases where a large amount of money is involved, but not all personal injury cases are large. People may go to his office thinking and trusting in the protection stemming from these conditions present in his rhetoric: the presence of a jury, the quantity of jury members, the promise of a meeting with the insurance company representatives in the attorney's office, and the number attorneys working in a case suggested when Horton uses the pronoun "we."

IMAGE FROM STORYBOARD



Figure 84: Attorney Horton speaks from the conference room at this office.

Advertisement 68: RJDW

Similar to Dallas Horton's advertisement, this commercial promises the assistance of four competitive attorneys if a client retains this law firm but does not specify under what conditions. Attorney Cory Jones is depicted in his office. In Spanish, he says that after a serious accident a person's life may never be the same. As the camera pulls in to frame

IMAGES FROM STORYBOARD



Figure 85a: The advertisement starts with attorney Cory Jones explaining in Spanish that after an accident a person’s life might never be the same. He promises to be there for clients and their families, at his law firm clients will not be alone.



Figure 85b: By contacting this office people will have the support of four attorneys described by Jones as the best and more qualified in Nevada. A male voice over says “the union is strength for you.”

him in a medium shot, he “promises” the viewer and his family that they are not alone (in Spanish: “...Yo estoy aquí para prometer a usted y a su familia que no están solos.”) Next, in a long shot, we see a group image of the four attorneys working at this law firm. Jones says, “...Aquí en Royal, Jones, Dunkley y Wilson usted tendrá no solo uno sino cuatro de los mejores y más capacitados abogados en Nevada ayudando a usted y a su familia.” (Free translation: “...Here, at Royal, Jones, Dunkley and Wilson you will have not just one but four of the best and more qualified attorneys in Nevada helping you and your family.”) Symbolic of strength and power, the two attorneys portrayed in the front cross their arms or hold their hands on their waist (see figure 85a – 85b). A male voice over says “...la unión hace la fuerza para usted.” (Free translation, “...the union is strength for you”.) The union refers to the four attorneys working altogether on behalf of a client.

Would any person who approaches this office have consultation with four attorneys? It is more likely that some cases would end up having the input of four

attorneys if needed, but that may not be the case for all clients. So, why promise something that is not likely to happen for the majority of cases?

Advertisement 104: Ron Israel

The text suggests that some attorney services are free. A woman speaking on behalf of Ron Israel informs the viewer, "...When you chose Ron Israel he'll handle your traffic tickets, med pay claims, and property damages claims for free as long as you're his client." Handling traffic tickets, med pay claims, and property damages are not free services. Attorneys charge a percentage of the total amount they recover from insurance companies when they settle a case. Usually, when signing with an attorney, a person agrees to pay 33.33% of all the compensation awarded to the attorney, and signs a lien to receive medical treatment from facilities suggested by the attorney. At the time of closing the case, the law firm collects money from the insurance companies distributed approximately as follows: One third to the medical facilities, one third to pay attorney fees (and here they may add some additional costs described in the contract that are not always clear to the client,) and the remaining to the client. The meaning of "free" in Israel's commercial is not clear since it is in part what other attorneys cover as well. The medical facilities bill the law firm and provide medical care withholding their bills until the case is settled. The client does not have to pay upfront, but this does not mean these services are free. The textual information provided in this advertisement is misleading (see figures 86a – 86c).

IMAGES FROM STORYBOARD



Figure 86a: Depiction of a client calling attorney Ron Israel, the first step in the process. A step described by Israel as “crucial.”



Figure 86b: Ron Israel is depicted handling a client’s case; his diplomas on the background symbolize professionalism and expertise.



Figure 86c: A woman explains that the attorney will handle traffic tickets, med pay claims, and property damage claims “for free” as long as you are his client.

Commercialization of Law

The following examples start building the connection between resolving a car accident and making a profit. Either by establishing a lower fee that allows a client to keep a larger percentage, or by portraying an appealing life style, the lesson for the viewer is that an accident could be an opportunity to have financial gain. Ideally, the law protects the right of an accident sufferer to receive financial compensation that allows a person to go back to his or her normal life, this means: covering loss of property, loss of work and pay, medical bills, and emotional trauma. Although some of these cannot be calculated in numbers, and may be an aggravation for which the person might not recover, the law protects the right of a person to receive compensation. This does not mean that a person could start celebrating having an accident because s/he will get rich, and this is where some of these depictions present an unethical and unreal representation. People do not end up buying houses and jewelry, or going to parties for having an

attorney fighting for them after an accident. These depictions create the false illusion that some attorneys know the formula to guarantee a larger cut. I question expressions such as “take that to the bank,” “it’s your money” in this category and phrases that suggest competition. Attorneys compete with each other by placing other attorneys down to make themselves seem better. This is business, specifically an example of the symbolic transition of the commercialization of law. By using competition in their advertisements, attorneys are applying a strategy commonly used in product advertisement.

Advertisement 6: Chad Golightly

In this example, Golightly creates competition by lowering his fee. In general, Las Vegas attorneys charge 1/3% of the amount settled, in this case, Golightly offers to reduce his fees from 33.3% percent to 22%. His phrase “my fee is 22% and you can take that to the bank...” persuades the viewer through the seduction of money. People may consider him as the best option. If his fee is 22%, a client may estimate that they could end up taking 78% to the bank as he proposes. But, there are some other costs that are not mentioned: medical bills that may be part of a lien, hard costs, e.g. use of the phone, fax, and others that some attorneys add to their bill at the end. If a case is resolved in Court, the fee will

IMAGE FROM STORYBOARD



Figure 87a: Attorney Golightly speaks from his office. A graphic on the lower left side of the frame indicates that his fee is 22%.

not remain a 22%; usually attorneys raise their fees to 50% (see figure 87a).

Advertisement 15: Ellen Stoebling

“Ellen Stoebling gave us a new life” says a woman who suffered a car accident while her husband puts a necklace around her neck; this is a subtle indication that their life improved financially as a result of attorney Stoebling’s intervention. After describing her painful experience, the woman and her companion—who might be her husband—are seen wearing party dresses and jewelry indicative that the accident and contacting the attorney has been an opportunity to make money and change their lifestyle. The use of camera angles may be symbolic too. It starts with a shot of her in the reflection on the mirror. This means that the impact of the accident was such that she was not herself but a mere reflection, a memory of who she was in the past shot at eye-level which adds credibility to what she is saying. In contrast, after Stoebling’s assistance, the last image

IMAGES FROM STORYBOARD



Figure 88a: This woman’s testimony takes the viewer through the realities of having an accident. We see her image as she speaks from the reflection on the mirror, a portrayal that exacerbates her condition as a bad memory that is no longer part of the present.

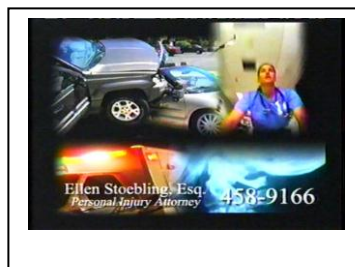


Figure 88b: A montage of serious car accidents is depicted here.



Figure 88c: The woman now faces the audience turning back no longer seen as a reflection on the mirror.



Figure 88d: The new lifestyle! This is the kind of lifestyle that you could get if you contact Ellen Stoebing. The woman is getting ready to go to a party, her husband puts a necklace around her neck and she is happy that she contacted Stoebing who made the insurance companies “pay.”



Figure 88e: No longer the woman in distress that started this commercial talking about not being able to pay the bills and depending on her income, she is seen at the top of the stairs, with the camera shooting from below, depicted as a happy, successful person ready to enjoy her “new life.”

is a long-shot placing the camera from below. She is elevated, seen from the bottom, now she is at the top, with money, relieved, enjoying life, and going to a party. This camera angle is symbolic of her higher achieved status (see figures 88a – 88e). The woman says, “Ellen Stoebing gave us a new life. She went toe to toe with the insurance companies and made them pay.” This advertisement brings the idea that talking to an attorney after an accident is a way to make money, an opportunity to have the life you always wanted.

Advertisement 20: Glen Lerner

Attorney Glen Lerner does not make an attempt to make a statement about his legal expertise, his experience, the services provided by his law firm, or engages the public with the promise of providing a number of legal experts. He tries to make himself

familiar to the public by using slogans that people could remember. Yet, there is a subtle message hidden in this specific slogan. In this commercial, he is depicted as a giant walking on the Las Vegas Strip. His performance as a giant is symbolic of his *big* achievements. When he repeats the word *big* in different statement, such as, “Think big,” “You get big service,” “Big help and all the money you deserve,” he is making the connection between *big* and *more*. This connection ends up producing the effect of more money, more service, more help. The seduction of money is present in this advertisement—that may just be interpreted as a funny and innocent commercial—and affirmed in the last sentence... “...big help and all the money you deserve” (see figures 89a – 89b).

IMAGES FROM STORYBOARD



Figure 89a: Glen Lerner’s message is simple, straight to the point, “Think big”! What does big mean in this case? As he explains, it entails receiving “big service” at his office, “big help....



Figure 89b: ...and all the money you deserve.” The association between big money and thinking big is subtle, although still reinforces the analogy that retaining his law firm equals more money.

Advertisement 24: Aaron & Paternoster

In the first image, we see the close up of a man on the right side of the screen. The man’s message and graphics on the left side of the screen target people who may be

overwhelmed by debt. In red fonts, the graphics say, “Debt out of control.” The information in the lower third mentions the attorney’s name and phone number; this information stays in for the duration of the commercial. Second, we see a man identified as the law firm’s spokesman. He indicates that just for one-hundred dollars people can start resolving their situation. He is depicted holding dollar bills on his right hand as he addresses the viewer looking directly into the camera. Third, we see a woman whose face is juxtaposed inside a one-hundred dollar bill, falling exactly in the middle of the dollar bill. This depiction is symbolic of the money people could make or save. A female voice over and the man depicted say consequently, “The creditors won’t stop calling you.” “And, they won’t let up. You need help.”

A male voice over interrupts a voice over as if alerting the viewer with some important information. Simultaneously, the graphics written in red fonts say, “Attention!” Below, the message written in white fonts against a black background say, “Please be advised. You can still file for bankruptcy. You can still use the law to eliminate all of your debt!” This message is not inherently wrong, but seems to mislead the viewer with an alert that urges immediate action. Another woman is depicted on a one-hundred dollar bill, she smiles to the camera. The last graphics say, “We know what to do, to get you out of debt!” (see figures 90a – 90f).

This advertisement is making an analogy between filing bankruptcy and making a profit. The combination of people’s close ups speaking from within dollar bills, the man holding money on his hand, and the immediacy of the message recreate the idea of a financial opportunity. The text calls attention of those who may need to file for bankruptcy, which is not inherently negative; it is a larger problem in our society given

our difficult economic times. “You can still use the law to eliminate all of your debt” along with the monetary symbols may be sending the wrong message. The law is written to relieve those who, for some unpredictable circumstances, end up facing hardship and feel overwhelmed by debt putting their families and themselves at risk.

IMAGES FROM STORYBOARD



Figure 90a: The man’s message and graphics target people who may be overwhelmed by debts.



Figure 90b: The law firm’s spokesman indicates that for just one-hundred dollars people can start resolving their situation.



Figure 90c: The depiction of this woman depicted in a dollar bill is symbolic of the money people can make or save.



Figure 90d: The text in this frame says, “...you can still use the law to eliminate your debt...” a message.



Figure 90e: Another woman depicted in a dollar bill.



Figure 90f: Aaron and Paternoster indicating in this graphic that they know what to do.

Advertisement 36: Veronica Valentine

Veronica Valentine presents happy endings to each one of the different cases depicted in her commercial. Her portrayals are optimistic: First, a male voice over asks, “¿En casos de inmigración?” (Free translation: In immigration cases?) A woman is seen on the phone saying, “Sí, ya compramos casa.” (Free translation: “Yes, we already bought a house.”) Second, the voice over asks, ¿En caso de accidentes de auto o laborales?” (Free translation: “In car accident or work-related injuries?”) A man with a cast on his arm says smiling, “Sí, todo bien.” (Free translation: Yes everything is OK.”) Attorney Valentine does not induce the viewer with scary images, or desperate situations (see figures 91a – 91c).

IMAGES FROM STORYBOARD



Figure 91a: A woman seems to be answering in relation to immigration cases, she says, “Yes, we bought a house.”



Figure 91b: A voice over mentions car and work-related injury cases. This man seems to be responding, and says, “Yes, everything’s OK.”



Figure 91c: A voice over mentions divorce cases. This woman says, “Very well, I feel free.”

In particular, I pay attention to the part on the script that answers to the results of immigration cases. The woman says, she already bought a house might not be an accurate

representation in most cases. In real situations, immigration is a process that takes time to adjust. The problem here is not the optimistic view, but the simplification of the legal proceedings in time, context, and financial hardship. Unless the person depicted in this commercial had a professional advantage (e.g., degree, work experience) or financial advantage before contacting the attorney (e.g., migrated with an employment contract and/or is wealthy) and contacted the attorney to change his/her migrant status, most immigrants would need some time to adjust, not being able to end up buying property as soon as they change their legal status.

This commercial is misleading the viewer in terms of the costs of the proceedings, that are not explained, and the expected results that exaggerate or overly simplify the possible outcomes.

Advertisement 76: Anthony Lopez

The central symbol in Anthony Lopez's advertisement is money. First, a medium shot of a man is superimposed with the image of a car accident in the background. In Spanish the graphics says, "Tiene derecho a una compensación." (Free translation: "You have the right to receive compensation.") Second, attorney Lopez is seen in the background in a conference room sitting with some clients or assistants. The man in the foreground continues talking to the viewer. Third, large golden dollar symbols and text are superimposed the previous image. The text says, "Le dirán cuanto podría ganar por su caso." (Free translation: "They will tell you how much you could win for your case.")

IMAGES FROM STORYBOARD



Figure 92a: The graphics say “you have the right to received compensation” = money.



Figure 92b: Attorney Lopez is seen in his office in the background talking to clients.



Figure 92c: Dollar symbols written in gold superimposed on the image saying, “...will tell you how much you could win for your case” = money.



Figure 92d: The graphics reinstate that a person has the right for compensation if s/he was hit = money.



Figure 92e: The graphics say “\$100,000,000 won for our clients” = money.



Figure 92f: The graphics say, “With or without insurance we will win for you” = money.

dollar symbols, and written text that reinforces the promise that the attorney will win the case and/or more money. It is also indicated that Lopez is the “attorney of the 25%” (free translation from Spanish: “el abogado del 25%”) in reference to his lower fee.

Scouting or Inducing to Sue

Attempts to induce people to act fast and call an attorney are indicative of attorneys’ scouting for clients. Having an accident is not part of a person’s everyday life experience. Unlike commercial products a need for attorney services cannot be created. A person might go day-after-day without ever contacting an attorney. This need cannot be created unless a person suffers an accident or injury, is in debt and considers filing for bankruptcy, needs to respond to the IRS, goes through divorce, or needs to prepare a will or trust. These scenarios are the most commonly depicted in the commercials I examined. The possibility of acting fast and call immediately is not necessary, yet this is part of the rhetoric in some cases. Either by saying, “Call now” or by adding a similar message attorneys prompt emotional responses from the public. Attorneys create problems, alert viewers about opportunities to sue and inflate the possibilities to take cases to court or request compensation.

When interpreting these examples in a Gestalt, the viewer is educated after repeated messages that something might change in bankruptcy law, and if they do not act fast, they will not be able to declare bankruptcy, or may do so but end up losing money. The Gestalt effect of these commercials is of concern here, because it presents the false impression that people need to behave in an emotional manner considering that spending time to think might present a financial risk: Aaron and Paternoster use graphics urging the viewer to act fast saying, “...you can still use the law to eliminate your debt.” Phillip

K. Goldstein uses graphics urging the viewer to “call for help now.” Krieger and associates use a graphic saying, “Call now” written above their phone number. Frank Sorrentino urges viewers saying, “Attention Las Vegas, bankruptcy is still an option, call today, free consultation.”

IMAGES FROM STORYBOARDS



Figure 93a: Aaron and Paternoster (Bankruptcy) urge the viewer to act fast saying, “you can still use the law to eliminate your debt.”



Figure 93b: Phillip K. Goldstein (Bankruptcy) urging the viewer to call for help now.



Figure 93c: Rodney Okano (Personal Injury) requesting the viewer to call today.



Figure 93d: Krieger and Associates (Bankruptcy) requesting the viewer to call now.



Figure 93e: Frank Sorrentino (Bankruptcy) urging to call today, reminding the viewer that bankruptcy is still an option.



Figure 93f: Anthony Lopez – Personal Injury (Personal Injury) in Spanish urging the viewer to call now.

Similarly, personal injury attorneys urge viewers who have been in an accident to call; they promise of aggressive representation or more money: With his hands on his waist, Rodney Okano uses graphics that say “call today.” Anthony Lopez adds graphics in Spanish saying, “Call now!” (free translation from Spanish: ¡Llame ya!) (see figures 93a – 93f).

Advertisement 48: Weiss & Weiss

The key in Weiss and Weiss commercial is the use of the words “relief,” “do not worry” connotative of a soothing effect achieved only if the client goes to the attorney’s office. The advertisement by Weiss and Weiss is not unique, I use this example to explain a general pattern used by other attorneys as well. The use of soothing words give the viewer the impression that they will find relief to their financial situation and are seduced to consult the attorney for free. He says, “Starting with a free consultation and ending with debt relief. If you don’t have your paperwork ready, don’t worry, just come in and see me. Our job is to make you aware of your options and to put you back in control of your life” (see figures 94a – 94b).

Compelled to find an empathetic ear that will take their side and bring relief to their financial struggles, viewers who hear these messages over and over will learn that declaring bankruptcy will bring more relief than not. The viewer might get into the impression that the attorney will remain by their side, and be there for moral support along the process. Notice the changes in phrasing, as he explains, “come and see *me*” that later changes to “*our* job is to make you aware...” Chances are, the initial consultation will be performed by the attorney if available, but followed by legal assistants who handle the paperwork.

IMAGES FROM STORYBOARD

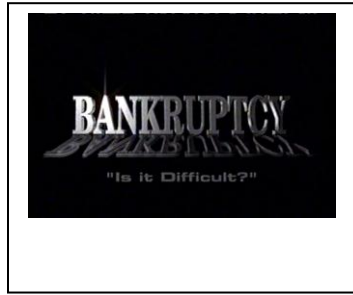


Figure 94a: The advertisement starts with a question that the viewer may be asking herself/himself. Is it difficult to declare bankruptcy?



Figure 94b: “No,” answers attorney Weiss, and the soothing, empathetic description begins with a “free consultation,” promise of “debt relief,” affirming not to “worry, just come and see me,” and promising to put the client “back in control of [his/her] life.”

Advertisement 60: Roni Deutch

The promise of “free services” induces people to call a law firm and make an appointment. Viewers might get the impression that there is nothing to lose and no risks attached just by calling. In this case, I use this example by Roni Deutch who explains that there is nothing to lose in calling the office, getting a free consultation, and confidential tax evaluation. People might send in their information thinking there are no strings attached and wait for the results to make the decision of hiring the attorney services if they could save some money they owe the IRS. In addition, she mentions that, “over the last 14 years, they have helped their clients save millions of dollars...” When services are free, people may opt to try it, in this sense, the law firm is scouting for clients under the promise of confidential free analysis, and since “others” have done the same for over 14 years, people might assume there is nothing to lose (see figure 95). Hidden from the message is the cost. How much would these services cost?

IMAGE FROM STORYBOARD



Figure 95: A male voice over explains that services are free and confidential.

Advertisement 85: Injury Helpline

In personal injury cases the statute of limitations is two years. This means that after an accident the person needs to initiate a petition to recover for damages and/or sue for compensation within that time. After that time, a person may lose his or her right to sue as a result of the expiration of the statutory period. If an attorney is handling the case, s/he would need to take action to preserve the client's right to recover damages (http://www.expertlaw.com/library/limitations_by_state/Nevada.html) (accessed February 12, 2010). That the law limits the time to make a claim is true, but the advertisement by the Injury Helpline seems to prompt the viewer to make a call and file a claim without explaining that Nevada Laws guarantee and provide a window of time. The actor or spokesman depicted in this commercial explains, "The law limits the time you have to file your claim, so call the Injury Helpline now" (see figure 96). This text is partially true, since the more a person waits, the stronger the argument from an insurance company to deny compensation. Yet, it is important to note that according to the law, this does not have to be immediate.

IMAGE FROM STORYBOARD



Figure 96: The actor depicted in this commercial explains that the law “limits the time to file.”

Advertisement 94: Richard Harris

Richard Harris Law Firm targets audiences who have purchased and used a product sold at Home Depot. This commercial induces people to sue²³, since it educates the public on the possible consequences of using this product. First, the viewer reads, “Hazardous Product Recalled” in big red fonts superimposed against a tile background. Second, an image of cans is shown on the left and text that says, “300,000 cans sold exclusively at the Home Depot.” A similar message is repeated by a male voice over. Third, we see a closer look of the cans and a text placed diagonally over the previous text saying, “Recalled.” Fourth, there is an image of a man who appears to be ill, and text written on the left side saying, “People exposed experience: dizziness, coughing, shortness of breath, vomiting.” A red arrow goes over the possible symptoms, while the camera moves slowly to a close-up of the man. The voice over mentions, “If you have been exposed to fumes...and require medical treatment...call...” Fifth, we see an even closer look of a single can, while text on the left mentions medical treatment or hospitalization

²³ These examples were collected in 2006. Currently, in 2010, the number of attorney advertisements scouting clients has increased, reaching clients who have used medical products, medical procedures, products, and others.

after exposure. It is not clear if this means the attorney will provide with referrals of physicians who work with the law firm, or if they ask clients if they had consulted a physician (see figures 97a – 97f).

IMAGES FROM STORYBOARD



Figure 97a: The language plays a role in this commercial. It introduces the product as hazardous.



Figure 97b: The photo of the product makes it easily recognized and educates the public on the possibility of suing if they have the product at home.



Figure 97c: The graphic imposed on the image says “recalled” alerting the public.



Figure 97d: The advertisement educated the public on the possible symptoms of the exposure to this product.



Figure 97e: The person depicted in the commercial may have been chosen to represent a person who is sick. While a red arrow goes over the symptoms, the camera moves slowly to a close-up to the man’s face.



Figure 97f: The commercial says “if you have been exposed to fumes...and require medical treatment...call...” Would this mean the attorney will refer to a physician that work with the law firm? Or would they ask a client if they had consulted with a doctor?

The symptoms may not be related exclusively to the use of this product. Notice that the possible symptoms could be associated with a viral infection, flu, or common cold. This law firm is taking the opportunity presented by this product's recall to induce people to sue. If a person has suffered medical problems when using this product, they may see this commercial as a source of relief. They may consider calling this law firm to receive compensation for their medical bills. However, it is also possible to consider the opportunity this commercial presents to viewers who having the product at home would consider calling the law firm to gain some profit arguing that they present the symptoms exposed in this commercial. The script says that if the person has been exposed to toxic fumes from this product and need medical attention, they should call the office. The intention is questionable. If the person calls the office and the attorney provides with a list of physicians that work with the law firm, the law firm has control over all the steps in the process. If people call the office, say they had consulted with a doctor, had received treatment, and are now aware that their symptoms relate to the use of the product, the person has a valid concern and the attorney provides a service to protect the person's rights. The key issue in this case is awareness. Is the person aware that they had a problem that relates to a recalled problem? Or are they induced to sue based on the opportunity presented in this commercial?

Advertisement 100: (Unknown) Law Firm

The message in this commercial is similar to the previous one by Harris Law Firm. It creates awareness on the possibility to consult with an attorney based on the use of a product that has caused problems. The message is not as clear and conclusive as the previous one. This commercial presents the alternative that the use of depression

medicines can produce violent behavior and even suicide. In contrast with the advertisement by Harris Law Firm, the next step is not clear. This law firm withholds the information regarding their procedures and intentions. They are also hiding the name of the attorneys. The phone number is 1800-law-firm, with no identification.

Visually the camera moves going inside the gates of a cemetery and make a stop in front of a grave. The names of the medicines: Lexapro, Zoloft, Prozac, and Effexor are superimposed on the grave (see figure 98). The voice over announces that, “Certain antidepressant medicines can actually trigger violent behavior and suicide.” The message asks people to contact the law firm if a “loved one” has used these medicines.

IMAGE FROM STORYBOARD



Figure 98: The names of four medicines used for depression are superimposed on a grave.

Conclusion

In their advertisements, attorneys bring to surface problems in bankruptcy law promising relief from debts, stop payments, and include alternatives to paying the IRS. The larger question is whether or not these options are available to every person and under which conditions. A strategy that attorneys use to gain people’s trust is to play

along with the viewer against perceived forces or structural sources of power and domination. Similar to products that talk to the viewer implying breaking the norms, and being different, attorney advertisements appeal to the frustrations of viewers that rebel against the IRS, against debt to banks and creditors, against insurance companies, and others. However, this is another strategy similar to the description by Fiske (1989) when he defined popular culture. Popular culture wants to escape the dominant ideologies, appears as the counterculture providing a new voice, holds the hands of the underrepresented, the rebels that depart from the norm. Fiske (1989) defines popular culture as “formed always in reaction to, and never as part of, the forces of domination” (p.43). But, as Fiske continues, this does not mean “members of dominant social groups cannot participate in popular culture—they can and do. But to do so they must reform their allegiances away from those that give them their social power” (p.43). Attorneys break their allegiance to institutions like the IRS, the legal system pointing out to flaws, other attorneys describing their incompetence, and insurance companies to step side-to-side with the viewer who may be rebelling against the same. Attorneys have not ceased to be part of the dominant groups, or have joined the rebels’ side ready to march down the street holding signs; they are simply playing the part on television to reach the audience and earn a profit out of a person’s frustration, desperation, or lack of information.

CHAPTER 10

CONCLUSION

The Supreme Court's decision in the case *Bates vs. State Bar of Arizona* opened the doors for attorney advertisements taking into consideration the First Amendment and the important role that lawyers fulfill in society. The intention was to guarantee that audiences would be exposed to legal opportunities and information. Yet, the format of television is not conducive to fulfill such a task because of the time constraints in regular programming. Advertising, whether of products or services, serves the purpose of selling and making a profit. When attorneys advertise they use strategies similar to commercial products. They attempt to create a sense of viewer familiarity with law firm names, logos, and the messages that promote attorney businesses. Moreover, when observing the messages paying attention to the common themes in attorney advertising, I found that most attorneys reinforce their expertise in a manner that I compare with the literary character *deus ex machina*. Attorneys portray themselves as experts and the sole authorities for where people can get advice and the help they need. This aspect in attorney advertisement is consistent with the role lawyers perform in society. Attorneys mediate instances where people need to have access to the law. The use of the legal language to interpret the law, understand court proceedings, and defend individual rights is a valuable asset that positions attorneys in hegemonic control over lay people. This control is socially constructed and legitimated throughout the American legal system.

Foucault explains this type of power and legitimation in terms of the triangulation between power-right-truth, placing discourse at the center, as the medium that facilitates this structure. For him, power is exercised through a particular discourse, giving rights to

authoritative figures who exercise the domain of truth. Foucault (1994) explains that, truth and power exist in a symbiotic relationship, since “we are subjected to the production of truth through power and we cannot exercise power except through the production of truth” (p. 31). The power to control discourse is a privilege of a few, according to Foucault. All people can use language to communicate, but few can use discourse that represents knowledge and establishes or reinforces the truths behind scientific, judicial, or historical knowledge. Pursuing a Foucaultian analysis (1980) entails evaluating texts, like attorney ads, by asking “whom does discourse serve?” (p.115). This type of question, which has been frequently posed by semioticians and helps to uncover meaning, takes a new direction in Foucault’s analysis. He attempts to resolve this question understanding the power structure that benefits from existing discourse. The discourse used in law firm advertisements, when attorneys prompt viewers to fear; to act immediately; to use bankruptcy laws or personal injury as a source to gain a profit; or to understand, learn and accept the idea that there is no justice unless they contact an attorney are all examples of discourse that helps sustain attorney power as truth.

The ideas expressed in lawyer advertisements reflect an existing social structure. Attorneys reaching the public by offering a profit reflect a capitalist ideology that prioritizes profit as sacred value; attorneys asserting their position as keepers of knowledge stating that without their help people would be at a loss reflect flaws in our legal system at protecting individuals rights; attorneys expressing other lawyers’ lack of experience and disrespectful attitudes mirror an existing problem in our society where the State Bar fails to protect the public in favor of protecting attorneys in their business.

These conditions are examples of the gaps in the American legal system as a hierarchical structure where lawyers take an advantageous position in relation to clients and viewers who do not possess the language, networks, and knowledge necessary to protect their legal rights.

Advertisers transform common problems into crisis that demand immediate attention and solutions that usually involve the purchase of products and services. Attorney ads, for example, prompt viewers into thinking that an accident could be an occasion to make a profit. Yet, the Las Vegas court system has been overwhelmed with a high number of personal injury cases. “According to the Insurance Industry Institute, Nevadans file 39.7 injury claims for every 100 auto accidents. The national average is 24.5.” Referring to attorneys who advertise, Geeser continues explaining, “Those guys are looking for work...They have their ads blasting, and as soon as you get in an accident, call one of these guys, and somebody is gonna pay” (Coolican and Richards 2009:1-3).

Similar to advertisements where the product sold becomes symbolic of a higher social status, attorney commercials sell the idea that making a profit and enjoying a more comfortable life is possible through contacting an attorney. In attorney commercials, people display signs of wealth and status after contacting an attorney, e.g., happy portrayals, smiles, checks in their hands, new attire, and jewelry. Displaying money does more than evoking success, it conveys to the viewer the idea of winning a case, of achieving a victory, and becoming successful. Audiences are not only seduced by the money symbols but with the promise of victory and being on the winner side.

Attorney services are certainly necessary in a democratic society, but the information carried in television advertisements needs to be aligned with such need. Yet, attorney ads follow the same logic of simplification and commodification of services found in American society as a whole. Malloy (2002) uses the terms “law-mart” as symbolic of the transition of the commercialization of the legal business. Malloy (2002) explains that people may find a lawyer in a commercial in the same manner as they find a product, “The lawyer is pitched and positioned for a particular consumer audience in the same way as many other products” (p. 199).

Law firms need to evaluate the content of their future advertisements in terms of their impact, taking into account viewers’ reactions, understanding that the television medium with its time constriction is not conducive to bring awareness of legal options for audiences. All television ads can do is bring the image of an attorney in competition with others in the same manner as one brand of a product competes with another. Attorney advertisements are consistently following the trends found in sociological and media studies that point to stereotypes and disparities seen in television commercials. By reflecting on sociological and media effects theories that have consistently paid attention to television portrayals—e.g., symbols, discourse, stereotypes, camera conventions, editing, and others—attorney commercials could more effectively reach the goal of informing the public, while fulfilling their intention of attracting prospective clients to their business. Current attorney advertisements on television do not fulfill the goal of increasing public awareness regarding their legal rights anymore than detergent commercials promote hygiene.

The point that I am trying to make is that although the strategies used in attorney and product advertisement are similar, the impact of advertising a product is dramatically different from advertising a lawyer firm. The most important difference is *power* followed by *pervasiveness* and *exclusiveness*. The amount of advertisements educates the public in a unilateral manner pointing only in one direction, that is, to contact an attorney for representation and resolution of one's problems. Advertising laws are written to protect attorneys in their business. In Las Vegas, no advertisements or public service announcements instruct the public of the steps and procedures necessary to declare bankruptcy on their own. No alternatives are publicized that counterbalance the power that attorneys have to control and influence people who might be suffering as a result of personal injury or bankruptcy.

Regardless of the intention of the viewer to use the medium of television to satisfy needs, to seek information or entertainment, television constructs a certain reality and provides a frame of reference that informs identity and influences decisions. When receiving information regarding products and services, active viewers may access this information, and take an action or disregard the message. Audiences can resist consumption by accessing available media through the use of new technologies, narrowing their interests in a more effective manner that reflects their personal needs and wants. When searching for products or services, people may find alternative sources of information to compare these and make informed decisions. This is *not* the case for legal services. In Las Vegas, information that compares attorney services, or steps or guidance to act without legal representation are *not* available to the public. What to do in case of an auto accident, clear steps and advice on bankruptcy law, alternatives to contacting an

attorney, open discussions on the pros and cons of dealing with insurance companies on a personal basis, and information on the wrongdoings of local law firms are not available to the public. The obscurity in the language of the legal profession, the lack of information available to the general public, the lack of education and available community programs, and the lack of discussion regarding professional ethics in the legal profession put the viewer at risk of not acting based on their most informed decision but opting for the most frequent source of information available through the media, that is, attorney advertisements. This combination of information frequency with pressure to take fast—sometimes uninformed—decisions is characteristic of hypermodernity. Gottschalk (2009) explains:

...[T]he hypermodern moment is characterized less by a declining trust in what Giddens calls ‘expert systems’ than by the increasing and realistic certainty of their corruption and impending failures. To add insult to injury, while risks seem to multiply exponentially, we are also increasingly reminded that we bear sole responsibility when we make the ‘wrong’ choice. (P. 310)

Considering that in their messages, attorney advertisements are already warning the public of the possible dangers of not consulting with an attorney, viewers find themselves in a vulnerable position.

The Gestalt or combined effect in attorney advertisement reduces the viewer to an emotionally fragile, helpless, and ignorant subject position seduced by the promise of money, without any other sources of information concerning alternatives outside of contacting an attorney. Afraid of making a mistake by not contacting a law firm, insecure about the obscurity in the legal language, with few and limited community programs educating the public about resources and options, viewers are bombarded by attorney ads

so frequently that they might not be able to turn on the television without seeing one (see table 5, figure 1). At any time of the day (see table 4) within 1 to 15 minutes (see table 6), a pool of fifty Las Vegas attorneys compete through aggressive advertising campaigns delivering messages that may or may not reflect the concerns of other Las Vegas attorneys who do not advertise, but nevertheless, reflect on the legal profession as a whole.

When people need to make a decision regarding products advertised on television, they have the option of seeking comments online, finding information at the stores where the product is sold, returning the product if not satisfied, comparing the product to others in the market, reading labels and making an informed choice, complaining or reporting their dissatisfaction at a consumer protection office that would investigate the case and take actions if needed. When attorneys advertise selling their law firm services as a product²⁴ sold on television, *none of the above is available*. I found very limited information online discussing clients' problems in their interactions with law firms²⁵. Important information about average prices, steps and time frames of legal proceedings, comparisons between law firms in terms of client satisfaction and results are *not* available. Programs in our society where the public gets educated about their legal rights are barely publicized. Except for the State Bar of Nevada – Legal Fee Dispute or

²⁴ Attorneys recognize that in their commercials they sell their image and services as products. When the State Bar of Nevada restricted G. Lerner from advertising under the name *Heavy Hitter*, because that could make the impression that he could be the *only Heavy Hitter*, Lerner stated, "It's beyond ridiculous...As long as my ads are not false and misleading, I can say what I want to say...I'm selling a product. Me...I'm like the Ty-D-Bol man" (Puit 2006).

²⁵ In a Website called Ripoff Report, with no identifiable author, a person describes attorneys Glen Lerner and Dallas Horton in a negative manner saying they "have found a gold mine serving insurance companies...NOT injured people" (Ripoff Report 2009). The same website contains a letter from a person that responding to this article calls Lerner and Associates "the most recognized and arguably most successful...firm" (Ripoff Report 2009). Another website mentions the story of a person who was induced by a chiropractor to hire attorney Dallas Horton. The person claims severe injuries and that Horton advised to settle for less money than he expected after months of treatment, medication, and permanent disability. He expressed Horton "did nothing for me but be rude to me" (Michael 2008).

Disciplinary Committee, no institutions guide clients who seek information or need to bring a complaint²⁶. And in the case of a complaint, the steps to follow are so obscure, cumbersome, and time-consuming that a person may not access for help. Comparing the Internet with the use of television, Lull (2007) notes that television “has long been blamed for a wide range of psychological, social, and cultural ills [in contrast with] the Internet [that] offers many more opportunities to initiate cultural experience, interact and communicate” (p.66).

Unless the person has already contacted an attorney, most viewers do not know that when contacting attorneys who advertise they may never have an actual face-to-face or telephone conversation with that friendly person on television who claims to treat them like family or friends. Legal assistants and personnel are more likely to respond to the initial contact with a client. Their level of expertise might be stronger than that of the attorney, but the client does not pay assistant fees, the client pays attorney fees. In the language of lawyers and our legal system, having legal representation means any person who works at the law firm.

Limitations and Suggestions for Future Study

This study evaluates attorney advertisements in Las Vegas aired on television in 2006. As mentioned in a footnote on chapter 9, some attorney practices have changed since then. More attorneys are scouting clients by mentioning products, medicines, or medical procedures that may be associated with client illness or risk. In addition, attorneys recreate their images according to holiday and sports events²⁷. As such, the

²⁶ An article published in the *Las Vegas Review Journal* describes that attorney Glen Lerner was being sued by a client for malpractice.

²⁷ I would include these characteristics as another category under attorney image explained in chapter 5, called *Seasonal* or *Opportunistic* self-image.

Super Bowl, soccer games, political campaigns, Independence Day, and Christmas are opportunities to remind the viewer that the friendly attorneys are conducting business. Yet, no attempts to deliver legal information seem necessary.

Public perceptions of attorney commercials or the experience of people who have contacted the attorneys mentioned in this study has not been included. A focus group study to gather perceptions on law firm advertisements might yield interesting results. However, gender and ethnic disparities might not be visible to viewers. In previous research on student perceptions of attorney advertisements, I used an instrument to gather responses on student recall of attorney ads and whether or not they would contact the attorney in case of an accident. Most descriptions of whether they would contact an attorney followed the same logic for product advertisement, basing opinions on the looks, attitudes of lawyers, or situations portrayed, e.g., “he’s funny, I would contact him.” The viewer might see the appeal of a commercial and extend those characteristics to the qualities of attorneys. Yet, once in need of an attorney, they would confront the reality that most attorneys are not to be seen in their offices. Clients are more likely to talk to paralegals, legal assistants, or other attorneys unless the case is complex.

I suggest that future research might include in depth-interviews and/or ethnographies of experiences of clients who have consulted with attorneys, have successfully dealt with insurance companies, or declared bankruptcy on their own. Instances where clients have contacted law firms, their positive or negative experiences, details of their steps and proceeding, time expectations, the type of interactions that involved lawyers and legal personnel, and prices for all proceedings constitutes data that can widely inform the public. Such information is barely represented in attorney

advertisement. It would be important to use this information in contrast with representations in attorney advertisements. I also suggest that a website where clients may express their experiences with attorney services, and the release of attorney records should be available to the public. It would be beneficial for society at large to open the channels of communication regarding attorney performance. A fair evaluation of their activities would not interfere with their business, on the contrary, it might end up being beneficial, and such competition would encourage attorneys to improve the quality of their services.

An opportunity for research may take into account client reactions to unethical or unprofessional behavior of law firms, insurance companies, and institutions. In Las Vegas, instances of attorney misbehavior or fee disputes are mediated through the Fee Dispute office and the Nevada Bar Association. In spite of their good will this public service is inefficient in protecting the public. If an attorney misbehaves, charges unreasonable fees, does not answer phone calls, makes mistakes in paperwork, switches the case between attorneys or legal assistants, miscommunicates with the insurance company damaging the client's appeal for compensation, or cancels appointments at the last minute...there is little a person can do. Avenues for complaining are cumbersome and inefficient, and as one member of the Nevada Bar Association explained to me, "we have our hands tied" because the Fee Disputes Office does not have the power to enforce decisions in favor of a client. It is left to the attorney's good will and ethics to respond to a claim raised by this office.

To my knowledge, there are no public records on law firm performance and client satisfaction. Yet, if attorneys are free to advertise as products do, why are they protected

from exposure regarding consumer satisfaction and performance? Gathering information through in-depth interviews and compiling ethnographic information could be an important resource for educating the public about real-expectations, procedures, and options. If freedom of speech and the right of the public to receive information was considered when the court decided in favor of allowing attorney advertisement, the same criteria should be applied to inform the public regarding law firm performance.

The practice of advertising legal services has moved forward, and does not necessarily need to be reversed. It may only need to be reframed using existing sociological and media studies that consider the public's interest rather than solely protecting law firm profit. The function of legal advertisements seems divorced from the fundamental or original goal to inform the public having freedom of speech at the core. Advertising fulfills the function of transforming a law firm into a commercial product, with a major distinction: Legal services are not products in the sense that when a client or buyer is dissatisfied with a product, the person could refrain from purchasing or may complain about the product. If attorneys fail to protect a person's rights or provide services below the level expected, they can seriously affect a person's life. It is in the potential risk of their actions where the main difference between products and lawyers differ, attorney services are expensive products that have the ability to affect a person's life. This effect should not be taken lightly or considered equal to a product sold. Therefore, attorney advertisements cannot be compared to product advertisements; attorneys have a duty to society, and attorney actions –from advertisements to representations in Court—need to be aligned with the ethics of the profession and centered in the communication of legal services for the benefit of society.

APPENDIX 1
TABLES AND FIGURES

TABLE 1. Attorney Advertisement Recording Schedule
from January 11, 2006 to February 18, 2006.

Date	TV Station	12 am to 8 am.	8 am to 4 pm.	4 pm to 12 am.	Total	Cum.Total
W 1/11/06	Ch. 3 NBC	Record	Record	Record	24	24
F 1/13/06	Ch. 5 FOX	Record	Record	Record	24	24
Sat.1/15/06	Ch. 8 KLAS/CBS	Record	Record	Record	24	24
T 1/17/06	Ch. 9 Telemundo	Record	Record	Record	24	24
R 1/19/06	Ch. 12 WB	Record	Record	Record	24	24
Sat.1/21/06	Ch. 13 ABC	Record	Record	Record	24	24
M 1/23/06	Ch.15 Univision	Record	Record	Record	24	24
	Total hours				168	168

Date	TV Station	12 am to 8 am.	8 am to 4 pm.	4 pm to 12 am.	Total	Cum.Total
W 1/25/06	Ch.15 Univision	Record	Record	Record	24	48
F 1/27/06	Ch. 3 NBC	Record	Record	Record	24	48
Sun.1/29/06	Ch. 5 FOX	Record	Record	Record	24	48
T 1/31/06	Ch. 8 KLAS/CBS	Record	Record	Record	24	48
R 2/2/06	Ch. 9 Telemundo	Record	Record	Record	24	48
Sat. 2/4/06	Ch. 12 WB	Record	Record	Record	24	48
M 2/6/06	Ch. 13 ABC	Record	Record	Record	24	48
	Total hours				168	336

Date	TV Station	12 am to 8 am.	8 am to 4 pm.	4 pm to 12 am.	Total	Cum.Total
W 2/8/06	Ch. 12 WB	Record	Record	Record	24	72
R 2/9/06	Ch. 8 KLAS/CBS	Record	Record	Record	24	72
Sat.2/11/06	Ch. 15 Univision	Record	Record	Record	24	72
Sun.2/12/06	Ch. 3 NBC	Record	Record	Record	24	72
T 2/14/06	Ch. 13 ABC	Record	Record	Record	24	72
R 2/16/06	Ch. 5 FOX	Record	Record	Record	24	72
Sat.2/18	Ch. 9 Telemundo	Record	Record	Record	24	72
	Total hours				168	504

Note. Each television station was recorded for 72 hours on two weekdays and one weekend-day. The total recording time was 504 hrs. I recorded and timed all television commercials on the following dates: W 1/11/06 - Ch. 3 – NBC; F 1/13/06 - Ch. 5 – FOX; T 1/17/06 - Ch. 9 – Telemundo; R 1/19/06 - Ch. 12 – WB; M 1/23/06 - Ch.15 – Univision; T 1/31/06 - Ch. 8 – KLAS/CBS; and M 2/6/06 - Ch. 13 – ABC.

TABLE 2. Nominal Scale Variables and Categories

Variable Description	SPSS Data Name	Code	Category Description
TV station where recorded	STATION	1	Ch. 3 NBC
		2	Ch.5 FOX
		3	Ch. 8 KLAS/CBS
		4	Ch. 9 Telemundo
		5	Ch.12 WB
		6	Ch.13 ABC
		7	Ch. 15 Univision
Date when recorded	DATE	1	Wed 01/11/06
		2	Fri 01/13/06
		3	Sun 01/15/06
		4	Tue 01/17/06
		5	Thu 01/19/06
		6	Sat 01/21/06
		7	Mon 01/23/06
		8	Wed 01/25/06
		9	Fri 01/27/06
		10	Sun 01/29/06
		11	Tue 01/31/06
		12	Thu 02/02/06
		13	Sat 02/04/06
		14	Mon 02/06/06
		15	Wed 02/08/06
		16	Thu 02/09/06
		17	Sat 02/11/06
		18	Sun 02/12/06
		19	Tue 02/14/06
		20	Thu 02/16/06
		21	Sat 02/18/06
Hour when recorded	HOUR	1	12 a.m. to 1 a.m.
		2	1 a.m. to 2 a.m.
		3	2 a.m. to 3 a.m.
		4	3 a.m. to 4 a.m.
		5	4 a.m. to 5 a.m.
		6	5 a.m. to 6 a.m.
		7	6 a.m. to 7 a.m.
		8	7 a.m. to 8 a.m.
		9	8 a.m. to 9 a.m.
		10	9 a.m. to 10 a.m.
		11	10 a.m. to 11 a.m.

- 12 11 a.m. to 12 p.m.
- 13 12 p.m. to 1 p.m.
- 14 1 p.m. to 2 p.m.
- 15 2 p.m. to 3 p.m.
- 16 3 p.m. to 4 p.m.
- 17 4 p.m. to 5 p.m.
- 18 5 p.m. to 6 p.m.
- 19 6 p.m. to 7 p.m.
- 20 7 p.m. to 8 p.m.
- 21 8 p.m. to 9 p.m.
- 22 9 p.m. to 10 p.m.
- 23 10 p.m. to 11 p.m.
- 24 11 p.m. to 12 a.m.

Type of commercial	TYPE	
		0 unknown
		1 attorney ad
		2 car
		3 personal hygiene
		4 upcoming films, events
		5 TV station programming
		6 fast food restaurants
		7 hotel, casino, gaming
		8 banking, management
		9 medical centers, doctor's office
		10 food frozen, to cook, ready to eat
		11 computer stores, school supplies
		12 diet products
		13 pets, pet products
		14 films and DVD products, rental store
		15 car repair, parts
		16 beer, alcoholic beverage
		17 sports events
		18 educational institution
		19 PSA public service, community announcement
		20 medicines
		21 feminine product, pregnancy tests
		22 training, exercise, fit
		23 sweets, candy, cookies, crackers
		24 skin products
		25 surgery, cosmetic surgery
		26 elderly products
		27 home fragrance
		28 cleaning products

29 cash loans
30 clothes
31 car insurance
32 travelling, tourism
33 cereal, breakfast
34 children toys
35 medical advice online
36 beverages, juice, soda
37 furniture, appliance store
38 realtor
39 military, US corps, Navy
40 phone service
41 wireless, Internet service
42 air quality, air conditioning
43 make-up, cosmetics
44 dating online services
45 phone calls companions
46 jobs, employment, resume online
47 home repair, home depot stores
48 political, government petition
49 baby, toddler product
50 contact lenses, glasses
51 mattress online, by phone
52 home product, (fire place)
53 personal insurance, employment
insurance
54 locks, alarm systems
55 radio station
56 groceries
57 recreational vehicle homes,
vehicle
58 pool, spa
59 coffee, coffee creamer
60 carpet, installation, carpet
61 tax refund services
62 anti-smoking devices
63 bridal gowns
64 milk
65 Las Vegas city promotion
66 charity
67 tissue, toilet paper
68 home repair services
69 psychic lectures, readings
70 eggs
73 medical aid, devices
74 computers, Dell, computer store

		75	pharmacy
		76	restaurant
		77	newspapers, <i>LV Review Journal</i>
		78	jewelry store
		79	music, music on CDs
		80	English/Spanish lessons, videos
		81	Ethnic stores, services
		82	water filters
		83	natural products, herbs
		84	computer, & other courses by video
		85	male enhancers, Viagra
		86	sexy DVD, videos
		87	patent for inventions
		88	sports store
		89	art gallery, paintings
		90	Hispanic community pride
		91	mortuaries
		92	books, audio books
		93	apartment, rent
		94	gift shops, Hallmark
		95	advertising spot
		99	Telemarketing programming
Different attorney commercials	NEWKIND	0	not an attorney ad
		1	Kutner, Adam
		2	Golightly, Chad
		3	Bernstein, Ed
		4	Kutner, Adam
		5	Golightly, Chad
		6	Golightly, Chad
		7	Kutner, Adam
		8	De Luca, Anthony
		9	Golightly, Chad
		10	Lerner, Glen
		11	Lerner, Glen
		12	Bernstein, Ed
		13	Cassady Law
		14	Lerner, Glen
		15	Stoebing, Ellen
		16	Horton, Dallas
		17	Golightly, Chad
		18	Golightly, Chad
		19	Graham, Rob
		20	Lerner, Glen

21 Shook & Stone
22 Horton, Dallas
23 Golightly, Chad
24 Aaron & Paternoster
25 Lerner, Glen
26 Lerner, Glen
27 Bourgault & Harding
28 Bourgault & Harding
29 Bourgault & Harding
30 Goldstein, Phillip
31 GGRM
32 Burr, Jeffrey
33 Galvez, Miguel
34 Tingey & Tingey
35 Bateman, Ben
36 Valentine, Veronica
37 Lerner, Glen
38 Galvez, Miguel
39 Bernstein, Ed
40 Palacios, Eric
41 Athari, Reza
42 Castroverde
43 Woods, Eric
44 Castroverde
45 Bernstein, Ed
46 Montelongo
47 Bernstein, Ed
48 Weiss & Weiss
49 Weiss & Weiss
50 Roger, David
51 Okano, Rodney
52 Stoebling, Ellen
53 Stoebling, Ellen
54 Haines & Krieger
55 Krieger & Associates
56 Sorrentino, Frank
57 JG Wentworth
58 Weiss & Weiss
59 Sorrentino, Frank
60 Deutch, Roni
61 Horton, Dallas
62 Horton, Dallas
63 Koch, JanPaul
64 Hartsell, James
65 Horton, Dallas
66 Horton, Dallas

67 Lopez, Anthony
 68 RJDW
 69 Kutner, Adam
 70 San Miguel, Eduardo
 71 Jensen, Greg
 72 Lerner, Glen
 73 Valentine, Veronica
 74 Hartsell, James
 75 Athari, Reza
 76 Lopez, Anthony
 77 Montelongo
 78 Horton, Dallas
 79 Bernstein, Ed
 80 Bernstein, Ed
 81 Lerner, Glen
 82 Lerner, Glen
 83 Stokes, Adam
 84 Aaron & Paternoster
 85 Injury Helpline
 86 GGRM
 87 Neeman & Mills
 88 Ochoa, Vicente
 89 Palacios, Eric
 90 Lerner, Glen
 91 Golightly, Chad
 92 Golightly, Chad
 93 Golightly, Chad
 94 Harris, Richard
 95 Graham, Rob
 96 Hartsell, James
 97 Short, Jay
 98 Graham, Rob
 99 Short, Jay
 100 Law Firm – Unknown
 101 Israel, Ron
 102 Haines & Krieger
 103 Golightly, Chad
 104 Israel, Ron
 105 Israel, Ron
 106 Cochran's Firm
 107 Hunt, Virginia
 108 Welt, Gerald M.
 109 Marcek, Cliff
 110 Pereyra, Kathia

Is it an attorney ad?

ALLADS

0

no

		1	yes
Attorneys/Law Firms advertising (by name)	REPTATTY	0	not an attorney ad
		1	Kutner, Adam
		2	Golightly, Chad
		3	Bernstein, Ed
		4	De Luca, Anthony
		5	Lerner, Glen
		6	Cassady Law
		7	Stoebing, Ellen
		8	Horton, Dallas
		9	Graham, Rob
		10	Shook & Stone
		11	Aaron & Paternoster
		12	Bourgault & Harding
		13	Goldstein, Phillip
		14	GGRM
		15	Burr, Jeffrey
		16	Galvez, Miguel
		17	Tingey & Tingey
		18	San Miguel, Eduardo
		19	Jensen, Greg
		20	Stokes, Adam
		21	Neeman & Mills
		22	Pereyra, Kathia
		23	Marcek, Cliff
		24	Welt, Gerald M.
		25	Hunt, Virginia
		26	Cochran's Firm
		27	Israel, Ron
		28	Law Firm – Unknown
		29	Short, Jay
		30	Harris, Richard
		31	Bateman, Ben
		32	Valentine, Veronica
		33	Palacios, Eric
		34	Athari, Reza
		35	Castroverde
		36	Woods, Eric
		37	Montelongo
		38	Weiss & Weiss
		39	Roger, David
		40	Okano, Rodney
		41	Haines & Krieger
		42	Sorrentino, Frank

		43	JG Wentworth
		44	Deutch, Roni
		45	Koch, JanPaul
		46	Hartsell, James
		47	Lopez, Anthony
		48	RJDW
		49	Injury Helpline
		50	Ochoa, Vicente
Time between one atty ad and the next	TIMING	0	Not an atty ad
		1	One after the other
		2	1 to 5 minutes
		3	6 to 15 minutes
		4	16 to 30 minutes
		5	31 to 45 minutes
		6	46 min. to 1 hr.
		7	1 hr. to 1:30
		8	1:30 to 2 hrs.
		9	2 hrs. to 2:30
		10	2:30 to 3 hrs.
		11	3 to 4 hrs.
		12	4 to 5 hrs.
		13	5 to 6 hrs.
		14	8 to 10 hrs.
		99	First ad in the day, N.A., unknown

TABLE 3. Early Themes and Observations

Category	Unit	Unit Description
Attorney Presentation of Self	Happy	Attorney says he/she is happy to assist you, smiles, laughs frequently
	Funny	Attorney presents himself in funny situations; seems to be having fun by being involved in a funny situation that could be out of reality made with the purpose of entertaining; people around him e.g. collaborators in his law firm, or clients seem to be having fun, e.g. being at a party
	Experienced	He/she mentions years of experience, number of cases resolved, etc.
	Confident	Assertive manners, walks assertively, confidently speaks to the public
	Sympathetic	Says he/she understands what the victim (or client) is going through or might go through in case of accident, loss of job, bankruptcy, and other situations. He/she knows what this means for you
	Friendly	Amicable manners, calls himself/herself your friend, charismatic character or personality
	Family	Attorney portrays himself/herself as brother-like, will treat you as a friend or family (the approach is different from a father-like figure that acts in a condescending manner.)
	Ethnic proximity	Mentions he/she works with a particular ethnic community, either by delivering the message in the language or asserting he and other people in his office speak the language. Depictions include legal associates or clerks from different ethnic backgrounds
	Aggressive	Says he/she is aggressive, will “beat” insurance companies, insurance companies “fear” him/her. “We fight”
	Angry	Displays angry emotions, angry facial

	expressions. Tone of voice and choice of words is aggressive. Include also body language indicative of aggression, e.g. making a fist, pointing a finger at the camera in a confrontational manner, punching a table
Condescending	Talks to people from a higher, more knowledgeable position, asserts that he knows, and people may not know, or seems to be talking to children. “You don’t understand, that’s OK”: You do not need to understand, just get better, I’ll decide what is better for you... Just get better, I’ll decide what is better for you... Include a father-like figure that seems to be talking to children
Dramatizing	Uses words, gestures that accentuate a dramatic situation or experience. Audio effects accentuate dramatic experiences, e.g. siren, ambulance, a car hit by another. Include here depictions of car accidents, injuries, police activities that are dramatic, arrest scenes
Manipulating	Induces fear, creates idea that unless you call him/her you will really regret it. Exaggerates situations to create fear
Comparing	Claims that other attorneys lie, “don’t let others fool you.” He/she is better than other attorneys
Free/Low Cost	Offers his free services, free consultation, low cost, lower than others
Rewarding/ Seducing with money	At any moment during the advertisement, people receive money, or a check. Attorney may depict money, gold, a check, or other symbols. Seduces a client with the promise of more money
Unethical	Seems to indicate that you could break the law, deny payment, break the law or reverse a legal decision
Deus ex-machina	God-like figure that seems to resolve situations
Celebrity-status	The depiction expects people to already have

		some familiarity with the attorney based on past advertisements. The choice of music and/or visual presentation elevates the person to a celebrity status, becomes more cinematic. The music score is composed for the attorney. Uses a slogan that identifies the law firm or person and distinguishes him/her from others. Not based on legal expertise, but on cinematic persuasion
How he/she is introduced	Testimonial/ Other	Presents himself through a testimonial, usually a client, possible client, member of the public. Include here those who wish they had called him
	Accident scene Voice Over	Presents himself at the scene of an accident Someone else introduces him/her, e.g. voice-over
	Legal assistant or collaborator	Presented by a legal collaborator, someone who works in his/her office as legal assistant or attorney
	Addressing audience	Looks at the camera, talks to the viewer
	Interview	In a profile, ¾ angle, Seems to be responding to an interview
	With Clients	Is seen with clients, while another person talks about him/her, could be a voice over but the emphasis here is in the depiction of him talking to clients
Setting	Court setting	Portrayal of ongoing trial, court setting as background, walks in/out of court
	Law Office	He/she is portrayed at his/her office, generally books in the background, texts, handling documents, talking to legal clerks, collaborators.
	Farm/Home	Displays a place that evokes or identifies person with a particular situation, may be depiction in front of a house that could be lost as a result of bankruptcy or farm/ranch ²⁸ evoking memories. Nostalgia

²⁸ Comment by Gottschalk: Farm/Ranch is often connotative of ‘simpler’ more honest, more natural days, people, or life (2010.)

	City Las Vegas	Creates familiarity with Las Vegas, he/she knows the city, city in the background, talks about this city and its problems
	Storyline	The background setting may move through different shots, e.g. may start in court, talking to clients, going to court, talking to insurance companies, and may end with a resolution of the case, clients receive a check; clients seem to be happy with the outcome; e.g. person losing home, attorney saves from losing a home
	Family	Depicts himself/herself as a family member, with his/her children, spouse, parents, etc.
	Car Accident	A tragic accident in the background, police may be involved, depictions of car crashes, victims in ambulance, during impacts, audio may indicate a car crash or accident
	Worker accident	Depiction of worker who has an accident, who cannot work as consequence of accident, depicted at home with injuries, explaining he/she had job-related accident, depicted having an accident
	Medical	Inside a hospital, nearby hospital, doctors, medical facilities involved. This is different from Car Accident and refers to victims in a medical facility not those assisted by medical personnel in an ambulance at the scene of accident
	Streets	Any street in the city, not necessarily indicating traffic concerns
	Traffic	Fast traffic in the background, cars speeding, may include dangerous situations
Hispanic vs. English language presentations	Grammar 1	Bad grammar in text or verbal communication
	Grammar 2	In Spanish, uses 2nd person (tú), not 3rd (usted): Tú means YOU in informal settings, casual conversations, among friends or family. Usted means YOU in formal, language between professionals, people who

		do not know each other. Definitely between attorney and client, and in a Court setting in Spanish-speaking countries.
	Quality	Difficult to measure, but there is an apparent lower quality in the filmic production of ads in Spanish (bad editing, bad video quality, poor story)
Gender	Attorney	Male/Female (attention to attire, e.g. sexy or tight clothes, casual attire, suit)
	Attorney Personnel	Male/Female (attention to attire, e.g. sexy or tight clothes, casual attire, suit)
	Client	Male/Female (attention to attire, e.g. sexy or tight clothes, casual attire, suit)
Message contains...	Voice Over	Male/Female
	Fantasy	The situation presents a fantastic situation, attorney wears costumes, seems to portray magic, uses magic wand to get results, money appears all of a sudden. Plays with reality, situations are not real. Attorney grows, use of filmic or editing devices, music or sound effects
	Legal Facts	The attorney wants to emphasize his/her knowledge citing legal issues, legal language, and/or laws. Gives legal advice
	Quantitative Facts	Support from stats, numbers, percentages, etc. This includes occasions when he/she mentions having achieved a number of resolved cases, reduced bills when paying the IRS or creditors, uses tables, etc.
	Inexpensive	Mentions that he has reduced contingency fees, charges less than others. "This is money that you pay, that you could save"
	Comparison	Other attorneys are bad, will lie to you, do not talk to others, do not speak your language... call me
	Unethical claim	Do not pay your bills, do not pay the IRS, the attorney offers to open a door to work around the law in the client's favor
	Inducing complaint	Alert people of a possibility to sue, a possibility to take a case to Court or consult

		with the attorney. The lawyers scouts for clients
	Personal attention	The attorney says “I will work for you”. Uses first person during the text giving the impression that s/he will talk to the client in person, says he/she will work with you in person, does not mention working with legal assistants. “Meet me in person”
	Victim	A victim expresses an injustice against him/her, the attorney offers a solution
	Promising money	More money, money fast. Save you money. This is money that you earn
	Promising Protection	I will protect your rights. I will be in your corner to defend you. I will fight for you
	Promising Proximity	Promises to treat you like family, or promises to treat you like a friend.
	Promising Speed	Promises a prompt resolution, fast, now, today. “Fast”, “Today” Speed of results, claims to act fast, and/or requests an urgent call, “Why wait?”, “call now”, “call today” (Gottschalk 1999).
	Promising to stay out of Court	Promising to stay out of Court
	Promising success	I will win...
	Future Reference	“Remember me” either because he appeared in commercials before, or for future reference
Depictions of clients or person(s) that appears in commercial	Injured	(Level 1) Pain: remembers pain, complains. (Level 2) Distress: Person in distress, desperate, crying, helpless. More emotional than physical. (Level 3) Injured: Person in pain, injured in car accident or job, but alert. Emphasis on the physical injury. (Level 4) Serious Injury: Person at the hospital, person in ambulance, person in car accident inside crashed car, we may not know if the person is alive. (Level 5) Death: Person’s body and face covered, representation of death
	Unaware	Person is unaware of his/her rights

	Regretful	Person regrets having called another attorney, or not calling an attorney. Message is “You should have called my office”
	Condescending ²⁹	Portrayed like a child at a party, seeing an attorney, playful or innocent
	Happy	The client(s) is happy with the outcome, relieved, smiling, and/or laughing
	Unethical	Person requesting to be relieved from creditors, getting away not paying the IRS, using bankruptcy in irresponsible manner, using law services to get away from situation were he/she is at fault
	Ambitious	Wants more money, wants to use accident/bankruptcy to “make” money
	Intimidated	Fearful of insurance companies, afraid of law, and possible outcomes
	Illegal	Person has no legal documents, no social security, work permit and others, the attorney offers to help, reminds him/her that he/she can still request medical compensation in car accident or job-related injury
Target audience	By legal expertise	(1) Bankruptcy cases (2) Personal Injury –car accident (3) Personal Injury-job related (4) Immigration cases (5) Divorce cases (6) Wills, Trust (7) Various services
	By depiction	(1) Elderly (2) Illegal non-resident (3) Hispanic (4) Desperate (5) Unaware of his/her rights (6) Tired of dealing with insurance companies or other sources (7) Pursuing money (8) Full of debts, called by creditors, IRS debts
Symbolic	Fear/Warning	(1) Police/police badge

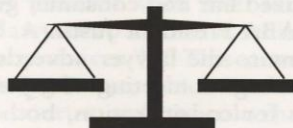
²⁹ In a conversation with Gottschalk, he called this unit *Infantilizing* (2010)

representations
(combines visual
and/or aural)

- (2) Police car
 - (3) Ambulance
 - (4) Alcohol
 - (5) Crashed Car
 - (6) Handcuffs
 - (7) Prison/bars
 - Legal Expertise
 - (1) Court building
 - (2) Legal scale
 - (3) Woman blindfolded holding scale
 - (4) Legal books, books on shelves
 - (5) Diplomas
 - (6) Law Firm logo
 - (7) Law buffet (law firm lawyers depicted together)
 - (8) Signing documents
 - (9) Office (exterior)
 - (10) Judge podium/Court/sound of gavel
 - Information
 - (1) Phone numbers
 - (2) Percentage charged
 - (3) Website³⁰
 - Commercialization
 - Money, \$ symbols, gold
 - Persuasive/
manipulation
 - (1) Slogan, catchy phrase
 - (2) Nick name
 - (3) Fire (as representative of pain, chefs in kitchen, not as danger or merely decorative)
 - (4) Family Portraits in background
 - (5) U.S. Flag
 - Decorative/Neutral
 - (1) Plants
 - (2) Office clerks
 - (3) Computer/laptop
 - (4) Phone
-

³⁰ At the time when I recorded attorney commercials, no attorney had mentioned a website or use of text-messaging. In 2010, attorneys include this type of information in their advertisements.

**DO YOU NEED
A LAWYER?
LEGAL SERVICES
AT VERY REASONABLE FEES**



- **Divorce or legal separation--uncontested
(both spouses sign papers)**
\$175.00 plus \$20.00 court filing fee
- **Preparation of all court papers and instructions on
how to do your own simple uncontested divorce**
\$100.00
- **Adoption--uncontested severance proceeding**
\$225.00 plus approximately \$10.00 publication cost
- **Bankruptcy--non-business, no contested proceedings**
Individual
\$250.00 plus \$55.00 court filing fee
Wife and Husband
\$300.00 plus \$110.00 court filing fee
- **Change of Name**
\$95.00 plus \$20.00 court filing fee

Information regarding other types of cases
furnished on request

Legal Clinic of Bates & O'Steen
617 North 3rd Street
Phoenix, Arizona 85004
Telephone (502) 252-8838

Figure 2. Copy of Original Bates Advertisement (Hylton 1998:42).

APPENDIX 2
IRB APPROVAL



Social/Behavioral IRB –Review Notice of Excluded Activity

DATE: January 19, 2010

TO: **Dr. Robert Futrell**, Sociology

FROM: Office for the Protection of Research Subjects

RE: Notification of IRB Action by Dr. Ramona Denby Brinson, Co-Chair *RDB/ce*
Protocol Title: **Attorney Advertisements in Las Vegas**
OPRS# 0911-3300

This memorandum is notification that the project referenced above has been reviewed by the UNLV Social/Behavioral Institutional Review Board (IRB) as indicated in Federal regulatory statutes 45CFR46.

The protocol has been reviewed and deemed excluded from IRB review. It is not in need of further review or approval by the IRB.

Any changes to the excluded activity may cause this project to require a different level of IRB review. Should any changes need to be made, please contact OPRS.

If you have questions or require any assistance, please contact the Office for the Protection of Research Subjects at OPRSHumanSubjects@unlv.edu or call 895-2794.

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