Attorney advertising: The effect on juror perceptions and verdicts

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University of Nevada, Las Vegas

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ATTORNEY ADVERTISING: THE EFFECT
ON JUROR PERCEPTIONS
AND VERDICTS

by
Stephanie Moore Myers

A thesis submitted in partial fulfillment
of the requirements for the degree of

Master of Arts
in
Communication Studies

Department of Communication Studies
University of Nevada, Las Vegas
May, 1988
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University of Nevada, Las Vegas
May, 1988
ABSTRACT OF THESIS

ATTORNEY ADVERTISING:
THE EFFECT ON JUROR PERCEPTIONS AND VERDICTS

Only in the last decade has the legal profession deliberated the use of advertising, publicity and public relations for itself. Despite the legal removal of the ban on advertising in the historic 1977 U.S. Supreme Court decision Bates v. State Bar of Arizona, the acceptance and use of attorney self-promotion has been slow and remains controversial. With the recent growth of television advertisements by attorneys and law firms, questions have been raised about how these commercials affect consumers and jurors. This study examined the effect of attorney television advertising on jurors who are engaged in civil trial litigation.

With the aid of the Eighth Judicial District Court Administrator's Office in Clark County, jurors who served on personal injury and malpractice trials from July, 1986 to September, 1987, were identified. The mailing list was confined to personnel of that office for purposes of confidentiality. A survey questionnaire, designed to elicit juror exposure to and attitudes about attorneys and attorney advertising, was
mailed October 1, 1987, to 499 jurors. The questionnaire was accompanied by a cover letter from Court Administrator Anna Peterson. Those jurors who wished to complete the questionnaires mailed them back to the Court Administrator's Office in pre-paid envelopes. The response rate was 53.3%. Responses were computer analyzed as well as subjectively appraised.

The major finding of this study was that although respondent jurors generally do not like lawyer advertising on television, it does not affect their trial verdicts unless jurors are actually confronted with a plaintiff's lawyer who advertises on television. When this becomes the case, jurors tend to vote for the defense. Other important conclusions were drawn from this research. There is strong sentiment that the law should be changed to limit jury awards. Advertising lawyers become the focus of this perception and therefore jurors tend to vote against the plaintiff in these trials, voting their perceived economic self-interest. However, those jurors with a more positive opinion of lawyers do not generally support tort reform. Additionally, jurors who have more positive opinions of lawyers in general and those in current working relationships with lawyers also have more positive opinions about legal service advertising.
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CHAPTER ONE

INTRODUCTION AND HISTORICAL BACKGROUND

Only in the last decade has the legal profession deliberated the use of advertising, publicity, solicitation, and public relations for itself. Despite the legal removal of the ban on advertising in the historic 1977 U.S. Supreme Court decision Bates v. State Bar of Arizona (433 U.S. 350), the acceptance and use of attorney self-promotion has been slow and remains controversial. With the recent growth of television advertisements by attorneys and law firms, questions have been raised about how these commercials affect both consumers and jurors. This study will examine the relationships between attitudes held by civil trial jurors toward attorney advertising, the legal profession, and the effects on trial verdicts.

Ethical, legal and social restrictions on the promotion of legal services have been a traditional aspect of the practice of law, dating from ancient Greece. Attorney self-promotion, throughout the centuries since, has been viewed as both unnecessary
and undesirable. English common law forbade the
generally well-to-do barristers from advertising or
soliciting, because the practice of law was regarded as
a public service, not as a trade. The ban on
advertising came to America as part of the transplanted
English common law. A few legal service
advertisements, however, did appear sporadically.
During the late nineteenth century bar associations
gained power and turned their attention to the
professional conduct of lawyers.

The Alabama state bar association was the first,
in 1887, to create a code of ethics; other state bar
associations soon followed suit. The American Bar
Association (A.B.A.) adopted its first canons of
professional ethics, based largely on the Alabama code
and including a formal ban on advertising and
solicitation, in 1908. These rules remained in effect
and were not challenged until many decades later.

In 1969, the A.B.A. replaced its canons with the
new Code of Professional Responsibility, incorporating
two Supreme Court decisions: the 1963 NAACP v. Button
(371 U.S. 415) ruling which gave the NAACP limited
protection to solicit lawsuits, and the 1964
Brotherhood of Railroad Trainmen v. Virginia ex. rel.
Virginia State Bar (377 U.S. 1) decision which held that Unions had the right to recommend lawyers to its members. These changes were the only substantive modifications made to the ethical regulations approved 61 years previously.

The Supreme Court obviously felt the A.B.A. had not gone far enough; it ruled in the 1975 Goldfarb v. Virginia State Bar (421 U.S. 773) that the county bar association could not impose a minimum fee schedule and that the exchange of money for legal services was "commerce in the most common usage of the word." In 1976 the Supreme Court, in Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc. (425 U.S. 748), gave constitutional protection to "commercial speech." Although it excluded lawyer advertising, it set the stage for the next big step.

The constitutional protection of "commercial speech" was extended to lawyer advertising with significant qualifications in June 1977 in the case Bates v. State Bar of Arizona (433 U.S. 350), which removed the ban on advertising by lawyers. The major justification cited in the decision was the consumer's right under the first amendment to the free flow of information. However, the court did not outlaw state
restrictions. As a result, after Bates, most of the states set up their own guidelines for lawyer advertising. These standards restricted ads to the disclosure of only specified categories of information and to the use of precise terminology in the advertisements.

A number of cases resulting from the tension between those lawyers who wanted to exercise their right to advertise and those who desired to continue to restrain advertising led to further Supreme Court decisions. For example, In re Primus (436 U.S. 412) in 1978, allowed certain direct mail solicitation. In the same year, Ohralik v. Ohio State Bar Association (436 U.S. 447), allowed states to prohibit in-person solicitation for financial gain. State restrictions, passed after the Bates decision, were, however, gradually lessened due to Supreme Court decisions arising in other fields.

The Bates decision inspired other professions and even publicly regulated industries to adopt advertising programs. This led to cases in which Supreme Court decisions required the states to justify the need for regulation. The lifting of the ban on physician advertising came in 1979, rapidly followed by other
professions such as dentists, accountants and physical therapists. In 1980 the Court allowed utility companies to advertise under the "commercial speech" doctrine in **Central Hudson Gas & Electric Corp. v. Public Service Commission** (447 U.S. 557), utilizing a four-part "commercial speech" test which can be summarized in the following statement: states might restrict advertising when it could be shown that the state's interest in regulating advertising outweighed the consumer's interest in making an informed choice. This same test was employed in 1982 in **In re R.M.J.** (455 U.S. 191). Although this was a case regarding a direct mailing question, the Court ruled that a state must assert a substantial interest in order to put any kind of restriction on an attorney's conduct. The 1985 **Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio** (105 S.Ct. 2265) decision strengthened the general proposition that aside from ads that are false, misleading or fraudulent, any attorney advertisement is entitled to first amendment free speech protection. Later that year, in **Committee on Professional Ethics v. Humphrey** (105 S.Ct. 2693), the Court extended the **Bates** and **Zauderer** rulings to include electronic advertising by radio and television for attorneys. Supreme Court decisions between 1979
and 1985 removed most state regulations affecting advertising by professionals.

The demise of legal prohibitions against attorney advertising has led to great controversy surrounding this issue, documented in every major legal journal. The A.B.A. Commission on Advertising continues to promote "dignity" as the goal for attorney advertising, but it is understood that bar associations across the country cannot constitutionally limit the flow of truthful, nondeceptive information of any kind. The Federal Trade Commission and the Department of Justice, pointing to anti-trust precedents, recently urged the A.B.A. Commission on Advertising to cease and desist from proposing any guidelines at all for lawyer advertising, and to remove the mandate that lawyer advertising be "dignified." Despite Supreme Court reassurances to the states that the states themselves govern lawyer advertising, it appears from the recent rulings that any attempt by the states to enforce disciplinary rules concerning lawyer advertising would be an exercise in futility. Many state Supreme Courts continue to struggle with their rules about lawyer advertising and solicitation, some attempting to
maintain stringent standards, especially on television advertising.

The acceptance and use of advertising by lawyers continues to be slow, as is the acknowledgment by the legal profession that the practice of law is a profit-oriented business rather than a public service. Part of the resistance from lawyers themselves is their fear regarding how the advertisements will appear in the eyes of the public. Many court rulings have recognized that lawyer advertising serves important purposes; they note that advertising by lawyers is perhaps the best way to provide information about legal services to an uninformed public. However, because of the national political events of the last two decades, many lawyers are sensitive to the public perception of the legal community. Lawyers, who might otherwise desire to advertise for good reasons, hesitate because of peer pressure and the fear that consumers and jurors alike will assign base motives to their advertising campaigns.

The present study will survey jurors who have served on personal injury and malpractice trials to measure the extent to which their attitudes toward attorney advertising may have influenced their verdicts.
and their attitudes toward the legal profession.

Chapter Two will examine empirical studies in the area of attorney advertising, which will lead to specific research questions for this study. Chapter Three will provide the reasoning and design of the methodology for this empirical research project. Chapter Four will report the results of the survey. An analysis and discussion of the results follows in Chapter Five of this thesis.
CHAPTER TWO

REVIEW OF EMPIRICAL RESEARCH

Other than a national survey analyzing the legal needs of the public (Curran, 1974) little empirical research concerning lawyers and consumers was attempted before the historic 1977 Bates decision (Sarat 435). The research which has been done since then has often been in the form of studies designed to gauge attitudes toward attorney advertising. These studies can be loosely grouped into three areas: surveys to determine attorney attitudes toward advertising, surveys to determine consumer attitudes toward advertising, and experiments concerned with content, layout, and the media used for attorney advertising.

SURVEYS OF ATTORNEYS

Removal of legal prohibitions against advertising created such a storm of controversy among lawyers themselves that the majority of the research about this issue centers on the attitudes which attorneys have held toward the use of advertising for the legal
profession. Two pioneering studies (Shimp and Dyer, 1978; Meyer and Smith, 1978) found strong opposition to advertising among attorneys, particularly among older attorneys with business and institutional clients. Attitudinal surveys conducted in 1976 (Bussom and Darling, 1978; Darling and Hackett, 1978; Darling and Tyler, 1978) of physicians, attorneys, accountants and dentists reflected adverse perceptions on the part of all four professions toward advertising. Other studies (Renforth, Raveed and Porter, 1980; Stem, Laudido and Israel, 1981) also reported negative attorney attitudes. An update of the initial 1976 Darling surveys (Bergiel and Darling, 1982) described a somewhat less negative perception in 1981 on the part of attorneys with regard to the issue of advertising. A series of national lawyer surveys for the American Bar Association Journal entitled "LawPolls" tracked the heavy opposition of attorneys to advertising, but also detailed the increasing use of self-promotion by lawyers between 1977 and 1987. In addition, some individual states performed their own surveys (Shimp, 1977, Ohio; Cavanaugh, 1977, Iowa; Durden and Woehlke, 1978, Iowa; Plehler, 1979, Wisconsin; "Survey of Florida Lawyer Advertising 1980"; Snizek and Crocker, 1985, Virginia; Peterson, 1987, Colorado), finding
generally disapproving attitudes toward legal service advertising. All the surveys of attorney attitudes document a profession strongly opposed to the use of advertising. The reluctance to enter the advertising market very gradually gave way to increasing acceptance and use of advertising techniques by more and more attorneys.

CONSUMER SURVEYS

After the Bates decision, there emerged a plethora of journal articles about the legal and ethical ramifications of this ruling. However, the major issue addressed by the decision itself was the consumer’s right to the free flow of information. Although articles and manuals began to appear on the basics of the marketing of attorney services, few studies concentrated on consumer research. One that did (Smith and Meyer, 1980) documented the consumer’s need for legal service information by analyzing and comparing consumer and attorney questionnaires about which characteristics were important in choosing an attorney. The authors concluded that integrity and quality should be emphasized in advertisements, along with lawyer specialty, past experience and fees.
Other surveys and polls studied other aspects of lawyer advertising. One consumer study (Humphreys and Kasulis, 1981) identified the target market for attorney advertising: middle-income males. The authors found that areas to be emphasized in advertising should be experience, specialization, personality and fees. A 1981 comparison of Wyoming consumer and attorney attitudes about advertising (Linenberger and Murdock, 1982) found that while attorneys felt advertising would create a bad image for the profession, consumers generally believed that advertising should be allowed and that this advertising would increase their awareness of legal rights and help them choose an attorney. Another study (Vanier and Sciglimpaglia, 1981) examined consumer attitudes toward physician advertising, and found that although consumers were quite wary, they did believe that physician advertising should be allowed. More consumer-related research (Darden, Darden and Kiser, 1981) found that users of legal services were primarily those with money and prestige, and that lawyers could develop marketing strategies, including the use of advertising, to attract new clients. The authors suggested that lawyers include their fees with other advertised information. In a related marketing study (Schroeter,
Smith, and Cox, 1987) data on attorney fees and advertising practices in seventeen U.S. cities was compared, and the authors concluded that advertising did increase competition among attorneys.

More recent surveys have also shown positive consumer attitudes toward attorney advertising. One consumer poll (Kallis and Vanier, 1983) discovered that three-fourths of consumers had seen a lawyer advertisement and three-fourths agreed that advertising should be allowed. Consumers preferred the Yellow Pages and trade journals as the media used for lawyer advertising, while suggesting that location, availability and experience be featured as the content for the ads. A comparison (Hite and Bellizzi, 1986) of consumer attitudes toward advertising by lawyers, accountants and physicians found that physicians would suffer the greatest credibility loss from advertising; consumers liked attorney advertising which was high in credibility, but did not define what factors comprised the concept of credibility. Consumer surveys contributed new information on various aspects of legal advertising.

It also appears that many of the studies reported here had at their core a heavy-handed purpose: to
convince attorneys that consumers welcomed their entry into the advertising market, and to encourage professionals, including attorneys, to develop comprehensive marketing programs, following the model of other small businesses. These tasks are generally not within the expertise of the average attorney, and most, therefore, would be forced to hire an advertising agency if they chose to pursue the goals spelled out by these studies. Advertising agencies have been quick to point out to attorneys the financial benefits of advertising, and would have something to gain themselves by selling this message.

EXPERIMENTAL STUDIES

Most researchers grappled with the issue of attorney advertising by surveying attitudes of attorneys and consumers. A few experimental studies dealt with content, layout and the media used for attorney advertising, again in an effort to gauge consumer acceptability for various advertising techniques. One study (Stem and Sisson, 1978) examined the effect of media type and price disclosure level on consumer attitudes toward lawyer advertising, and found that consumers preferred radio over print
advertisements and did not like specific price information in legal ads. Consumer interests were addressed again by another study (Dyer and Shimp, 1980) which compared the differences between lawyers' and consumers' evaluations of hypothetical but realistic newspaper advertisements. While the study found that consumers were still skeptical of attorney advertising, their evaluations of ads were much more favorable than those of the attorneys. Also, consumers particularly liked fee information; this conclusion was directly at odds with the previous Stem and Sisson study.

Several experiments were concerned with consumer attitudes toward attorney television advertisements. An interesting study (Murdock, 1980) compared consumer attitudes toward a television ad and a word-of-mouth recommendation. The TV ad resulted in a more negative image for the lawyer and less chance for that lawyer to be contacted. A similar experiment (Traylor and Mathias, 1983) concluded that TV advertising could have a damaging effect on the lawyer's image unless it was combined with a favorable word-of-mouth reference from personal contacts. A different conclusion was reached by another television experiment (Murdock, 1981); although the TV advertisement resulted in a less
favorable image than the word-of-mouth recommendation, neither image was negative.

Some experiments were concerned only with consumer attitudes about the content of advertisements using the less controversial print media. Researchers in one such study (Lang and Marks, 1980) mailed one of eight experimental print advertisements from a fictitious attorney to Wisconsin residents to determine consumer attitudes toward lawyers who advertise. Consumer purchase intentions increased with the inclusion of factual information, lower fees and lawyer qualifications in the ads. Marketing researchers (Patterson and Swerdlow, 1982) showed 520 Texas adults a lawyer ad and asked them to compare the lawyer who placed that ad with a typical lawyer. Their results indicated that advertising did not have a negative impact on consumers, although consumers perceived the advertising lawyer to be younger, less experienced, of average competence, more concerned for his client, and less expensive than a non-advertising attorney. A team of social scientists published two similar studies in 1985. One (Bush and Moncrief, 1985) compared the reactions of consumers and attorneys to five different experimental direct mail advertisements; the results
indicated that consumers viewed these advertisements much more favorably than did attorneys. The other study (Bush and Moncrief, 1985) compared the reactions of users (consumers) and non-users (students) of legal services to eight experimental newspaper ads; the ad featuring experience in combination with other factors maintained the highest credibility rating for the two different groups.

Some general conclusions based on the research completed to the present date in the area of attorney advertising may be drawn. The attitude surveys of attorneys showed heavy initial opposition to advertising, gradually giving way to less opposition and more use of advertising, but not yet culminating in common acceptance of advertising practices among attorneys. The consumer attitude surveys found that consumers had a much more positive perception of legal service advertising than did attorneys. The experimental studies in this area arrived at the same conclusion; consumers favored legal service advertising, and, generally, the more information that was provided, the more consumers liked it.

Although there exists much literature about attitudes toward attorney advertising, there has been
little academic research on the effects of attorney advertising. Reviewing the empirical studies concerned with attorney advertising, it became apparent that jurors as a specific population had not been evaluated. Jurors fulfill a special function in society: to arbitrate disputes and fairly judge the actions of others in the formal legal setting. However, jurors can and do bring their individual prejudices to this function. Some of these prejudices may concern race or appearance, others may involve advertising or insurance rates. These biases may manifest themselves in how a juror feels about the judge, or the lawyers, or the evidence. If one of the lawyers in a trial is a television advertiser, does this affect a juror's opinion of that attorney? Does it affect the outcome of the trial? There may be relationships to be found between attitudes about legal advertising, general opinions about attorneys, and outcomes of trials.

Most lawyers who advertise are personal injury lawyers. Other specialties of law do not necessarily serve the general public, and, therefore have little need for widespread advertisements; personal injury law services the special needs of the widest cross-section of the public, the accident victim. In order to reach
that public, many personal injury lawyers have begun advertising campaigns. In pursuing a marketing strategy aimed at influencing the greatest number of potential clients, many lawyers have chosen television, in addition to other media. This study will focus primarily on the effect of television advertising on jurors. While reaching the public in an effort to attract new clients, personal injury lawyers have quite recently begun to realize that their advertisements are also reaching the community jury pool. These people may at some time encounter the advertising attorney and his client in the courtroom. This study will analyze the attitudes of jurors toward attorney television advertising, specifically, attitudes of those jurors who have served on personal injury and malpractice trials. The first two research questions to be addressed by this research are:

RESEARCH QUESTION #1: What is the relationship between juror attitudes toward attorneys and their attitudes toward attorney advertising?

RESEARCH QUESTION #2: What is the relationship between the outcome of jurors' verdicts and juror attitudes toward attorney advertising?
Additionally, a unique aspect of personal injury and malpractice cases deserves attention. There has been a great deal of controversy in the past several years concerning the concept of tort reform. Insurance companies claim that huge jury awards, especially in personal injury and malpractice trials, have directly caused liability insurance rates to escalate, and they urge states to legislate limits on jury awards for these cases. Attorneys dispute this claim, citing court statistics which show that litigation and jury awards have remained constant over the years, and point instead to skyrocketing insurance company profits. There is speculation that the controversy surrounding tort reform has had an effect on the way jurors perceive attorneys, advertising, and court verdicts. This controversy led directly to the third research question:

RESEARCH QUESTION #3: What is the relationship between juror attitudes about tort reform and their attitudes toward attorneys and attorney advertising?

Finally, few studies have treated users and non-users of legal services as separate populations, especially as it relates to possible differences in attitudes toward attorney advertising. Two studies
discussed earlier, (Darden, Darden and Kiser, 1981; Bush and Moncrief, 1985) found that users and non-users of legal services had significantly different outlooks on attorney advertising. Unknown, however, is what effect this may or may not have on a juror who has been a user of legal services in the past. The final research question addresses the issue of whether experience with an attorney has been a factor in opinions about attorney advertising:

RESEARCH QUESTION #4: How are juror attitudes toward attorney advertising affected by previous experience in employing attorneys?
CHAPTER THREE

METHODOLOGY

The examination of juror attitudes toward attorney advertising was undertaken using a mail survey which was accomplished in four phases. These four phases will be described in this chapter in chronological order: sample formation, questionnaire design, survey dissemination and response rate, and statistical analysis.

SAMPLE FORMATION

In order to survey the specific population selected, jurors, the cooperation of the Eighth Judicial District Court Administrator’s Office was necessary. The researcher first approached the Court Administrator, Mrs. Anna Peterson, with the idea of doing research to examine the attitudes of jurors toward attorneys and attorney advertising in March, 1987. Mrs. Peterson received preliminary approval from the Honorable Earle White, Chief Judge of the Eighth
Judicial District, which encompasses all of Clark County, Nevada.

It was determined that the sample would include jurors who had served on civil trials during the preceding year: specifically, personal injury, wrongful death or medical malpractice trials. Jurors are often sensitive about being contacted directly, especially by other than court personnel; therefore, a mail survey was chosen over in-person or telephone interviews to protect juror anonymity. Access to the mailing list was confined to personnel of the Court Administrator's Office for purposes of confidentiality.

The mailing list was compiled by Mrs. Peterson's assistant, Shirley Blake, in a series of steps. First, a monthly master docket which indexes the criminal and civil trials from each of the sixteen departments comprising the Eighth Judicial District was consulted. All of the civil trials were catalogued from this docket. Panel sheets for each civil trial were read in order to select the personal injury, wrongful death and medical malpractice trials. Panel sheets enumerate the case name and number, the department number, the type of case, the names of the plaintiff's attorney and defendant's attorney, how long the trial lasted, the
verdict, and the names and identification numbers of
the jurors who were sworn in and completed service.
Information for the panel sheets was provided by the
clerk of each department. Jurors' identification
numbers from each selected trial were entered into the
Court Administration computer to find the matching
addresses for those jurors. This procedure was used to
find many of the names and addresses for the sample.
However, the Court Administration computer system
stores names and addresses for a period of six months
only, after which the information is stored on computer
files in the County Data Processing Office. A service
request was prepared for that office to search for the
addresses of those jurors from civil jury panels for an
additional six month period. The names and addresses
were furnished on a computer printout. From this
printout, jurors' names and addresses were compiled for
six more months of civil trials. Finally, a master
mailing list was created by Shirley Blake, and
envelopes were addressed.

Because the researcher did not have access to the
names and addresses of the jurors, a code sheet was
created which included the following information for
the researcher's use: a trial code number, the
department and case number of the trial, the verdict
date, the number of jurors, the number of days for the
trial, the verdict, and the type of case. Some of this
information was researched in the Office of the County
Clerk.

The master mailing list was made up of the names
and addresses of 499 jurors who had served on civil
trials during the period from July, 1986 to September,
1987. A total of fifty-four personal injury, wrongful
death and medical malpractice trials were included in
this study.

QUESTIONNAIRE DESIGN

It was determined that the questionnaires should
be accompanied by a cover letter (see Appendix A) from
Anna L. Peterson, Court Administrator, thanking the
jurors for their jury service and urging each of them
to complete their questionnaire and return it in the
enclosed pre-paid, court-addressed envelope.

The construction of the questionnaire was
accomplished in a series of steps. The initial
document was a collaborative effort between the
researcher and the Court Administrator. Working
together closely, a questionnaire was designed which would not only focus on the previously described research questions, but also provide information for the Court Administrator's Office concerning attitudes of jurors about their jury service and the Nevada court system. Therefore, a number of the items in the questionnaire were for Court Administration purposes only. In addition, the demographic information requested of the jurors would furnish a profile of the characteristics of community members who had responded to their jury summonses. This questionnaire was revised following examination of two previously-used, Court-administered questionnaires: one was a brief exit poll used in 1982 for Jurors of the Eighth Judicial District; the other wide-ranging questionnaire had been recently employed for surveying jurors serving in the Elko, Nevada district. The questionnaire was revised again following consultation with and suggestions made by Judge Earle White, Chief Judge of the Eighth Judicial District.

The questionnaire itself (see Appendix B) was designed to contain four parts. The first section relates most closely to the cover letter; the respondent first encounters the familiar ground of jury
service, slowly easing into the research area. The respondents are asked to rate on a four-point scale from "excellent" to "poor" their feelings about their jury service. The first three questions are for Court Administration purposes only. Questions four through six ask the respondents to rate the plaintiff's case. This series of three questions is designed to acknowledge and separate some of the factors which influence how the juror feels about the plaintiff's case: the presentation skills of the plaintiff's attorney, the evidence on the plaintiff's side of the case, and the credibility of the plaintiff's lawyer. Matching the credibility rating for the plaintiff's attorney to the variable of whether or not that attorney is a television advertiser may provide insight for research question two. The subsequent series of three questions was intended to elicit the same information about the defendant's lawyer; however, none of the defense lawyers in the selected trials were television advertisers. Questions ten and eleven concern court delays and the Nevada court system and were for Court Administration purposes only. The twelfth question about whether or not the respondent had voted with the majority was designed to uncover exactly which jurors had favored the plaintiff and
which jurors had favored the defendant. Civil trials in Nevada do not have to end with a unanimous verdict; the agreement of six of the eight jurors constitutes a binding verdict. For all the trials which did not conclude in verdicts (case settled, dismissed or a mistrial declared), the answer to this question became non-applicable. For purposes of analysis, if the trial verdict was for the plaintiff, but the respondent did not vote with the majority, then this juror was grouped with those favoring the defendant's case; if the trial verdict was for the defendant, but the respondent did not vote with the majority, then this juror was moved to the "plaintiff pool." Question thirteen was for Court Administration purposes only.

The second section of the questionnaire provides the basis for several of the research questions, furnishing information about the respondent's attitude toward attorneys in general, former and current working relationships with attorneys, and general attitude about attorney television advertising. Question fourteen, which asks respondents to rate their general opinion of lawyers on a four-point scale from "very positive" to "very negative", is the heart of research question one; it is desirable that respondents answer
this question first, before any questions about lawyer advertising might bias that opinion. The following four questions divide those who have had experience with a lawyer from those who have not, and is the basis for research question four. The rationale for these questions is that those respondents who have had or do have a working relationship with a lawyer may feel differently about attorney advertising from those who have not. The answer to question nineteen demonstrates the respondent's exposure to attorney television advertising. The final question in the second section (question twenty), which asks respondents to rate their feeling about lawyer television advertising on a four-point scale from "very positive" to "very negative," is the focus of all four research questions.

The attitudinal questions of the third section are essential to determine both attitudes about tort reform and the specific and detailed components of the respondents' attitudes toward attorney advertising. The evaluative statement format with a four-point rating scale from "strongly agree" to "strongly disagree" provides more definitive information about what the respondents like and think is useful in attorney advertising. The first three questions in the
third section are for Court Administration purposes only. The answers to questions 24 and 25 indicate whether the respondent is in favor of or opposed to tort reform and is the basis of research question three. All of the remaining evaluative statement questions in this section form a juror attitude assessment of attorney advertising and are related to all the research questions. The attitudinal questions 26 through 30 and question 34 were culled from previous consumer attitude studies (Kallis and Vanier, 1983; Linenberger and Murdock, 1982) as typical of the factors that influence attitudes which people hold about attorney advertising. Questions 31, 32 and 33 are a series of three questions which ask respondents to rate the effectiveness of the styles of ads used on television; the three styles chosen here are representative of actual attorney advertising broadcast in the Las Vegas area during the past year.

Demographic information was requested at the end of the survey to avoid initial reticence. This demographic information is of concern to the Court Administrator, but was not gathered to address specific research questions. The questionnaire concludes with
an appeal to jurors to make additional written comments
on the reverse of the questionnaire form.

A pilot study was conducted to assess the
reliability and readability of the survey during two
focus group sessions on August 26, 1987. Both morning
and afternoon focus groups were random groups of
community members who had been hired to hear evidence
and act as jurors in a mock trial. Following the mock
videotaped trial, juror deliberation and verdict, the
questionnaires were answered; these "jurors" were then
encouraged to voice their opinions about the survey.
Members of both groups provided suggestions; the
questionnaire was revised to facilitate respondent
understanding.

Before the surveys were mailed, each questionnaire
was coded with the trial code. Although no juror could
be identified by name, the trial code made it possible
to match a response with a particular trial and
verdict. This allowed the researcher to enter three
new variables for computer analysis: the outcome of the
trial (for research question two), whether the
plaintiff's attorney was a television advertiser, and
whether the defense attorney was a television
advertiser. There are five law firms in Las Vegas
which advertise their services on television; all five are plaintiff personal injury law firms.

SURVEY DISSEMINATION AND RESPONSE RATE

On October 1, 1987, the questionnaires were mailed from the Clark County Courthouse to the 499 jurors who had served on personal injury, wrongful death and medical malpractice trials during the period from July, 1986 to September, 1987. Some of the envelopes were returned; if a forwarding address was supplied, the questionnaire was mailed again. Seventeen questionnaires were returned to us as undeliverable. By December 31, 1987, a total of 257 good responses had been received. The response rate was 53.3%.

As the questionnaires were returned, the Court Administrator’s Office date-stamped and opened them. Information relevant to jury duty was photocopied; then the questionnaires themselves were transferred to the researcher. The data were coded and entered into computer.

STATISTICAL ANALYSIS

The coded data were analyzed by the Statistical
Package for the Social Sciences (SPSS), an integrated system of computer programs designed for the analysis of social science data. The subprogram FREQUENCIES was used to compute descriptive statistics for each of the items. CROSSTABS was employed to compute chi-square statistics for nominal data. The statistics related to the questions posed only for the Court Administrator were given to her office for her application.

T-TESTs for independent samples were used when subjects fell into one of two groups: those jurors who had favored the plaintiff and those who had favored the defendant; those jurors who had served on trials where the plaintiff’s attorney was a television advertiser and those who had not; those who had hired a lawyer before and those who had not; and those who were currently employing a lawyer and those who were not. Additionally, responses concerning general opinions of lawyers, attitudes toward lawyer advertising, and attitudes toward tort reform were divided into two groups based on whether those attitudes were positive or negative. Then t-tests for independent samples were computed to discover and evaluate the differences between the two groups concerning their attitudes toward legal issues and toward attorney advertising.
CHAPTER FOUR

RESULTS

The results of the juror survey concerning legal service advertising are documented in several sections in this chapter. The first section examines the descriptive statistics produced by the analysis of the questionnaire data. Subsequent parts will report the results which address the four research questions.

DESCRIPTIVE STATISTICS

First, the descriptive statistics from the four sections of the questionnaire (see Appendix B) will be considered. Since sections two and three of the questionnaire contain the critical areas of inquiry they will be examined first.

Section two of the survey asks respondents about their attitudes toward lawyers and lawyer advertising, and their experience, if any, with attorneys. The results of this section are shown in Table 1. As indicated by Table 1, respondents have a moderately
<table>
<thead>
<tr>
<th>14. In general, what is your opinion of lawyers?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) VERY POSITIVE (2) SOMEWHAT POSITIVE (3) SOMEWHAT NEGATIVE (4) VERY NEGATIVE</td>
</tr>
<tr>
<td>39 (15%) 149 (59%) 54 (21%) 12 (5%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>15. Have you ever hired a lawyer to do legal work for you?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES 166 (65%) NO 91 (35%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>16. If you have, what type of work have you hired a lawyer to do for you? *</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERSONAL AFFAIRS</td>
</tr>
<tr>
<td>BUSINESS OR TAX ADVICE</td>
</tr>
<tr>
<td>DEFENDING A CRIMINAL CHARGE</td>
</tr>
<tr>
<td>DEFENDING A CIVIL LAWSUIT</td>
</tr>
<tr>
<td>BRINGING A CIVIL LAWSUIT</td>
</tr>
<tr>
<td>128 (77%) 11 (7%) 3 (2%) 4 (2%) 21 (13%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>17. Rate the service you received most recently from a lawyer. *</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) EXCELLENT (2) GOOD (3) FAIR (4) POOR</td>
</tr>
<tr>
<td>33 (20%) 67 (40%) 39 (24%) 27 (16%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>18. Are you currently employing a lawyer?</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES 27 (11%) NO 227 (89%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>19. How often do you see lawyer advertising on TV?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) FREQUENTLY (2) SOMETIMES (3) SELDOM (4) NEVER</td>
</tr>
<tr>
<td>133 (52%) 98 (38%) 17 (7%) 7 (3%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>20. Overall, how do you feel about lawyer advertising on TV?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) VERY POSITIVE (2) SOMEWHAT POSITIVE (3) SOMEWHAT NEGATIVE (4) VERY NEGATIVE</td>
</tr>
<tr>
<td>19 (7%) 77 (30%) 103 (40%) 58 (23%)</td>
</tr>
</tbody>
</table>

* Percentages reflect those who have hired an attorney.
favorable (mean = 2.12) opinion of lawyers. Also, 65% of respondents had hired an attorney before, 77% of those for personal matters; but only 11% are currently employing a lawyer. Additionally, Table 1 shows that respondents have high exposure to legal service advertising on television; however, 63% of respondents hold a somewhat or strongly negative opinion of this advertising.

The third section of the questionnaire contains attitudinal statements for juror evaluation. Respondents are asked to indicate whether they strongly agree, somewhat agree, somewhat disagree, or strongly disagree with each statement. The descriptive statistics for this section are reported in Table 2. Three questions in this section were for Court Administration purposes only; therefore, they will be summarized later. Table 2 indicates that 94% of the respondents somewhat or strongly agree that large lawsuit awards cause higher insurance rates. Feeling is strong (75%) that the law should be changed to limit jury awards (tort reform). A majority of the written comments made by respondents concerned the issue of tort reform; most were acerbic editorials about lawyers who advertise causing more lawsuits, which in turn
<table>
<thead>
<tr>
<th>RESEARCH STATEMENTS</th>
<th>STRONGLY AGREE</th>
<th>SOMEWHAT AGREE</th>
<th>SOMEWHAT DISAGREE</th>
<th>STRONGLY DISAGREE</th>
<th>MEAN</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ATTITUDES TOWARD TORT REFORM</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large lawsuit awards cause higher insurance rates.</td>
<td>138</td>
<td>101</td>
<td>13</td>
<td>3</td>
<td>1.53</td>
</tr>
<tr>
<td>Changes in the law to limit jury awards would be a good thing.</td>
<td>107</td>
<td>84</td>
<td>41</td>
<td>21</td>
<td>1.91</td>
</tr>
<tr>
<td><strong>ATTITUDES TOWARD ATTORNEY ADVERTISING</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lawyer ads should include price information.</td>
<td>84</td>
<td>80</td>
<td>44</td>
<td>42</td>
<td>2.18</td>
</tr>
<tr>
<td>Lawyers who advertise on television are not credible or believable.</td>
<td>27</td>
<td>83</td>
<td>84</td>
<td>58</td>
<td>2.69</td>
</tr>
<tr>
<td>Advertising by lawyers will increase competition among lawyers, and will lower the prices of legal services.</td>
<td>31</td>
<td>72</td>
<td>85</td>
<td>64</td>
<td>2.72</td>
</tr>
<tr>
<td>Overall, the effects of advertising by lawyers will be beneficial to society.</td>
<td>22</td>
<td>88</td>
<td>84</td>
<td>61</td>
<td>2.72</td>
</tr>
<tr>
<td>People are more aware of their legal rights now than they were before lawyer advertising began.</td>
<td>21</td>
<td>78</td>
<td>103</td>
<td>52</td>
<td>2.73</td>
</tr>
<tr>
<td>Lawyer advertising is helpful in choosing a lawyer.</td>
<td>17</td>
<td>73</td>
<td>90</td>
<td>77</td>
<td>2.88</td>
</tr>
<tr>
<td><strong>ATTITUDES TOWARD STYLES OF ATTORNEY ADVERTISING</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lawyer ads showing the lawyer himself explaining the legal rights of consumers are effective.</td>
<td>31</td>
<td>120</td>
<td>61</td>
<td>41</td>
<td>2.44</td>
</tr>
<tr>
<td>Lawyer ads depicting accident victims are effective.</td>
<td>16</td>
<td>74</td>
<td>97</td>
<td>62</td>
<td>2.82</td>
</tr>
<tr>
<td>Lawyer ads presenting a spokesperson discussing a lawyer's qualifications are effective.</td>
<td>11</td>
<td>76</td>
<td>113</td>
<td>53</td>
<td>2.82</td>
</tr>
</tbody>
</table>
caused higher insurance rates. Many expressed anger about "the sue-happy nation" with accident victims trying to "pick up an easy and fast buck." One respondent summed up the remarks of many by writing "I feel that lawyers should not advertise! This encourages people to sue for anything." That people see a direct relationship between "so many frivolous lawsuits" and their own pocketbooks was stated by several respondents: "Plaintiffs ask for too high of a settlement, which ultimately causes ... everyone's insurance rates to increase."

The results of the evaluative statements about attorney advertising indicate a generally negative sentiment on the part of respondents. Two-thirds wish that lawyers would include fees if they advertise. Opinions are mixed about whether lawyers who do advertise on TV are credible (mean = 2.69); this is the only question in this section about attorney advertising which has a negative polarity. Also, respondents generally do not agree that advertising will increase competition and lower prices of legal services (mean = 2.72) or that people are more aware of their legal rights now because of advertising (mean = 2.73). Table 2 reports that respondents are divided
about whether lawyer advertising will prove beneficial to society; 57% disagree. Almost two-thirds do not think that lawyer ads are helpful in choosing a lawyer.

Additionally, Table 2 delineates the three styles of lawyer advertising broadcast in the greater Las Vegas area: ads picturing accident victims; informational ads featuring the lawyer himself/herself; and ads with actors discussing a particular lawyer's qualifications. Respondents were asked if they think each of these styles is effective; Table 2 indicates that the jurors think the ad featuring the lawyer himself/herself giving legal information to the audience is the most effective of the three (mean = 2.44); the mean statistic for the other two styles is 2.82 each.

The remaining items on the questionnaire dealt with questions about the respondent's jury experience. Over 95% of the respondents rated their jury experience as "excellent" or "good;" 94% also evaluated their introductory jury orientation in those top categories. Over 98% rated their treatment by court personnel as "good" or "excellent," with 70% in the "excellent" range, making this the question with the highest overall rating in the survey. The presentation by the
plaintiff's lawyer was judged "excellent" or "good" by 55% of the respondents; 51% rated the plaintiff's evidence in those same categories; and 61% assessed the credibility of the plaintiff's lawyer as "excellent" or "good." This series of three questions received even higher ratings for the defense lawyer: the presentation by the defendant's lawyer was judged "excellent" or "good" by 81% of the respondents; 70% rated the defendant's evidence in those same categories; and 80% rated the credibility of the defense attorney as "excellent" or "good." Almost 92% of the jurors evaluated the judge's explanation of court delays as "good" or "excellent." The Nevada court system was regarded as "good" or "excellent" by 90% of those who responded. Of those who deliberated a verdict, most (84%) voted with the majority on the final verdict. The group was fairly evenly divided between those who wanted to discuss the trial with the lawyers after reaching a verdict (48%) and those who did not (52%). Seventy-one percent of respondents strongly agree that they would gladly serve as jurors again. Ninety-four percent of those who deliberated a verdict agreed that the jury instructions read by the judge were clearly understood.
Demographic information was requested in the fourth section of the questionnaire. The demographic responses indicated that both major political parties were evenly represented (38% were Democrats and 37% Republicans) and 24% claimed non-partisan status. The jurors were well-educated: 66% were high school graduates and 31% said they were college graduates. Respondents declared annual family incomes somewhat evenly divided across all the categories. The racial background of the respondents was 92% white, 4% black, 2% Hispanic, and 2% Asian. All occupational areas were represented, with a high 40% in professional or management careers. The marital status category showed 72% of respondents married, 14% divorced, 12% single, and 2% widowed. All age ranges were well represented. More than half the respondents (57%) were female, 43% male.

The coding sheet supplied to the researcher by the Court Administrator made it possible to compute the following statistics. Of the 54 trials represented in the survey, 23 trials ended in defense verdicts, 22 resulted in plaintiff’s verdicts, 6 of the cases were settled before Jury deliberation, 2 of the cases were dismissed by the court, and the judge declared a
mistrial in one case. The respondents who favored the plaintiffs' cases numbered 119 (46%); those favoring the defense numbered 102 (40%); four (2%) of the respondents served on juries where the case was dismissed; twenty-six (10%) saw cases settled before deliberation; and six (2%) had a mistrial declared by the judge. Of the five personal injury law firms in Las Vegas which advertise on television, four are represented in this survey. Six of the trials involved a plaintiff's attorney who advertises his services on television. Thirty (12%) of the respondents served on juries in these trials, 227 (88%) on trials in which the plaintiff's attorney was not a television advertiser. None of the defense attorneys was a television advertiser.

RESEARCH QUESTION #1: What is the relationship between juror attitudes toward attorneys and their attitudes toward attorney advertising?

Those respondents with a very or somewhat positive opinion of lawyers, based on responses to question 14 of the questionnaire, were placed in one group; those with somewhat or very negative opinions of lawyers were placed in another group. A t-test for independent samples was employed to see if there were significant differences between the two groups regarding their
attitudes toward attorney advertising, from question 20 of the questionnaire. The t of -2.64 was significant (p < .01). Those who hold a positive opinion of lawyers also have a significantly higher opinion (mean = 2.69) of legal service advertising than those who hold a negative opinion of lawyers (mean = 3.02).

RESEARCH QUESTION #2: What is the relationship between the outcome of Jurors’ verdicts and juror attitudes toward attorney advertising?

All of the respondents who favored the plaintiff’s case were grouped together; those favoring the defense were placed in the second group (see Chapter Three for grouping method). A t-test for independent samples was used to see if the attitudes of the two groups were significantly different concerning attorney advertising, based on responses to question 20. The t of -.11 was not significant.

However, the outcome of the trial was affected if the plaintiff’s lawyer was a television advertiser, as reported in Table 3. The same two groups as above were compared according to whether or not the plaintiff’s attorney was also a television advertiser. Table 3 shows a significant chi-square, indicating that jurors favored the defendant in a large majority of the trials
in which the plaintiff's attorney was a television advertiser compared to cases where the plaintiff's attorney was not an advertiser. Table 3 indicates that 83% of those jurors with an advertising plaintiff’s attorney favored the opposing side, the defendant.

**TABLE 3**

**JUROR VERDICTS BY ADVERTISING AND NON-ADVERTISING PLAINTIFF’S ATTORNEYS**

<table>
<thead>
<tr>
<th>COUNT</th>
<th>VERDICT FOR THE PLAINTIFF</th>
<th>VERDICT FOR THE DEFENDANT</th>
<th>ROW TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROW PERCENT</td>
<td>COLUMN PERCENT</td>
<td>ROW PERCENT</td>
<td>COLUMN PERCENT</td>
</tr>
<tr>
<td>JURORS WITH AN ADVERTISING LAWYER</td>
<td>5</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>JURORS WITH A NON-ADVERTISING LAWYER</td>
<td>114</td>
<td>77</td>
<td>191</td>
</tr>
<tr>
<td>COLUMN TOTAL</td>
<td>119</td>
<td>102</td>
<td>221</td>
</tr>
</tbody>
</table>

Corrected chi-square = 17.62 with 1 degree of freedom
p < .01

Additionally, if the plaintiff's attorney was a television advertiser, significant differences appeared
in the way the jurors evaluated the plaintiff's case and attorney and the defendant's case and attorney. These differences are set forth in Table 4. The jurors whose plaintiff's attorney was also a TV advertiser were placed in one group; those whose plaintiff's attorney did not advertise made up another group. T-tests compared the two groups regarding their courtroom jury experience, based on questions four through nine of the questionnaire. Table 4 indicates first that if the plaintiff's lawyer was a television advertiser, the plaintiff's evidence was rated significantly lower. Secondly, the presentation skills of the defendant's lawyer were judged more favorably, to a significant degree, if the plaintiff's lawyer employed legal service advertising. Finally, Table 4 reveals that those jurors whose plaintiff's lawyer also advertised evaluated the defense lawyer's credibility and sincerity significantly higher than those whose plaintiff's attorney did not advertise on television.

RESEARCH QUESTION #3: What is the relationship between juror attitudes about tort reform and their attitudes toward attorneys and attorney advertising?

The respondents who strongly or somewhat agreed that it was desirable to change the law to limit jury awards, based on responses to question 25 of the
# Table 4

**Means and t Scores of Juror Courtroom Evaluations by Advertising and Non-Advertising Plaintiff’s Attorneys**

<table>
<thead>
<tr>
<th>Research Statements</th>
<th>Advertising Plaintiff’s Lawyer n = 30</th>
<th>Non-Advertising Plaintiff’s Lawyer n = 222</th>
<th>t</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Evaluations of the Plaintiff’s Attorney</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rate the evidence presented by the plaintiff.</td>
<td>2.87</td>
<td>2.46</td>
<td>2.34 *</td>
</tr>
<tr>
<td>Rate the credibility and sincerity of the plaintiff’s lawyer.</td>
<td>2.45</td>
<td>2.32</td>
<td>.71</td>
</tr>
<tr>
<td>Rate the presentation of the lawyer representing the plaintiff.</td>
<td>2.53</td>
<td>2.41</td>
<td>.62</td>
</tr>
<tr>
<td><strong>Evaluations of the Defense Attorney</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rate the presentation of the lawyer representing the defendant.</td>
<td>1.50</td>
<td>1.93</td>
<td>-3.18 **</td>
</tr>
<tr>
<td>Rate the credibility and sincerity of the defense lawyer.</td>
<td>1.60</td>
<td>2.00</td>
<td>-2.75 **</td>
</tr>
<tr>
<td>Rate the evidence presented by the defense.</td>
<td>1.87</td>
<td>2.12</td>
<td>-1.47</td>
</tr>
</tbody>
</table>

* = p < .05  
** = p < .01

Respondents were asked to indicate rating of each statement along a four-point scale: 1 = Excellent, 2 = Good, 3 = Fair, and 4 = Poor.
questionnaire, were grouped together; those who somewhat or strongly disagreed with that idea formed a second group. T-tests were employed to discover any significant differences between the two groups regarding their views about attorney advertising. None of the t-tests produced significant differences. A related question (#24 in the questionnaire) also found no significant differences: those who strongly or somewhat agreed that large jury awards cause higher insurance rates, were divided from those who somewhat or strongly disagreed with that statement. T-tests yielded no significant differences between the groups concerning their attitudes toward attorney advertising.

However, when these same groups were compared regarding their opinion of lawyers in general (question 14), significant differences were found. Comparing the groups on the basis of their agreement with changing the law to limit jury awards (question 25), the t of 2.70 was significant (p < .01). Those who do not agree that the law should be changed in order to limit jury awards had a more positive opinion (mean = 1.97) of lawyers in general than those who agree with tort reform (mean = 2.23). The t-test was used to find that significant differences (p < .01) also exist (t = 4.24)
when the groups were compared on the basis of whether or not they believed that jury awards cause higher insurance rates (question 24). Those respondents who disagree that large jury awards directly cause insurance rates to rise also have a more positive opinion (mean = 1.50) of lawyers in general than those who agree (mean = 2.20) with that idea.

RESEARCH QUESTION #4: How are juror attitudes toward attorney advertising affected by previous experience in employing attorneys?

Two groups were formed depending on whether respondents had hired a lawyer before or not, based on responses to question 15 of the questionnaire. T-tests were employed to discover if there were significant differences between the two groups regarding their attitudes about lawyer advertising (question 20); no significant differences (t = -.92) were found.

However, significant differences were found when those respondents who were currently employing an attorney were compared to those who were not, based on responses to question 18, in relation to their attitudes about legal service advertising, questions 26 through 34 of the questionnaire. Table 5 indicates that those respondents who are currently employing a
### TABLE 5

MEANS AND \( t \) SCORES OF RESPONDENTS' VIEWS ABOUT ATTORNEY ADVERTISING BY CURRENT WORKING RELATIONSHIP WITH ATTORNEYS

<table>
<thead>
<tr>
<th>RESEARCH STATEMENTS</th>
<th>MEAN SCORES OF JURORS CURRENTLY EMPLOYING AN ATTORNEY 25</th>
<th>MEAN SCORES OF JURORS NOT CURRENTLY EMPLOYING AN ATTORNEY 225</th>
<th>( t )</th>
</tr>
</thead>
<tbody>
<tr>
<td>ATTITUDES TOWARD ATTORNEY ADVERTISING</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>People are more aware of their legal rights now than they were before lawyer advertising began. 2.28</td>
<td>2.77</td>
<td>-2.53 *</td>
<td></td>
</tr>
<tr>
<td>Advertising by lawyers will increase competition among lawyers, and will lower the prices of legal services. 2.30</td>
<td>2.77</td>
<td>-2.43 *</td>
<td></td>
</tr>
<tr>
<td>Overall, the effects of advertising by lawyers will be beneficial to society. 2.31</td>
<td>2.77</td>
<td>-2.38 *</td>
<td></td>
</tr>
<tr>
<td>Lawyers who advertise on television are not credible or believable. 3.04</td>
<td>2.64</td>
<td>2.13 *</td>
<td></td>
</tr>
<tr>
<td>Lawyer advertising is helpful in choosing a lawyer. 2.56</td>
<td>2.91</td>
<td>-1.67</td>
<td></td>
</tr>
<tr>
<td>Lawyer ads should contain price information. 2.00</td>
<td>2.18</td>
<td>-0.94</td>
<td></td>
</tr>
<tr>
<td>ATTITUDES TOWARD STYLES OF ATTORNEY ADVERTISING</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Lawyer ads showing the lawyer himself explaining the legal rights of consumers are effective. 2.08</td>
<td>2.48</td>
<td>-2.19 *</td>
<td></td>
</tr>
<tr>
<td>Lawyer ads depicting accident victims are effective. 2.44</td>
<td>2.86</td>
<td>-2.07 *</td>
<td></td>
</tr>
<tr>
<td>Lawyer ads presenting a spokesperson discussing a lawyer's qualifications are effective. 2.64</td>
<td>2.83</td>
<td>-1.12</td>
<td></td>
</tr>
</tbody>
</table>

* = \( p < .05 \)

Respondents were asked to indicate opinion of each statement along a four-point scale: 1 = Strongly Agree, 2 = Somewhat Agree, 3 = Somewhat Disagree, and 4 = Strongly Disagree.
lawyer have a much more positive attitude toward attorney advertising. Those jurors presently working with a lawyer disagree significantly that lawyers who advertise on TV are not credible. That group also agrees that legal service advertising will increase competition and lower prices, and they agree that advertising has increased the public’s awareness of their legal rights. As reported in Table 5, those presently employing a lawyer have a significantly higher rating of ads depicting accident victims and informational ads featuring the lawyer himself. In addition, those respondents currently engaging a lawyer’s services see significantly more benefit to society from the effects of advertising by attorneys.
CHAPTER FIVE

DISCUSSION

The analysis of the survey of juror attitudes toward attorney advertising is presented in several sections in this chapter. The descriptive statistics of the results of the survey, as reported in Chapter Four, are discussed first, followed by an examination of the results of the research questions. Conclusions of this research are then summarized. Finally, the limitations of this study are explored, along with suggestions for further research.

DESCRIPTIVE STATISTICS

Examination of questionnaire results will follow the form created in Chapter Four: first, section two and section three of the questionnaire will be considered because these sections constitute the principal subject matter of this study, followed by the results of sections one and four.
The primary findings of the second and third sections of the questionnaire were that while jurors have a moderately high opinion of lawyers, they hold a moderately negative view of attorney advertising. First, jurors have a relatively positive view of lawyers; this concurs with the findings of Kallis and Vanier (1983) who concluded that consumers generally perceive attorneys to be competent, dependable, friendly, and knowledgeable. In this respect, consumers and jurors appear to agree on a favorable opinion of lawyers.

While jurors held positive attitudes toward attorneys, this survey found 63% of jurors holding a negative view of attorney advertising. The same researchers as above and others (Linenberger and Murdock, 1982; Bush and Moncrief, 1985) found generally positive consumer opinions toward legal service advertising. While Linenberger and Murdock (1982) found in their survey of Wyoming consumers that consumers generally felt that attorney advertising would increase their awareness of legal problems, 62% of the Las Vegas jurors disagreed. These Wyoming consumers and also Southern California consumers (Kallis and Vanier, 1983) felt that attorney
advertising would aid them in their choice of an attorney; 65% of Las Vegas jurors disagreed. Most California consumers thought that advertising by lawyers would lead to lower prices; Las Vegas jurors disagreed. Both California and Wyoming consumers believed that the effects of attorney advertising would be beneficial to society, most Las Vegas jurors did not. While the Wyoming and California surveys found generally positive attitudes of consumers toward attorney advertising, the present survey found generally negative evaluations on the part of Clark County jurors. Several of the attitudinal statements used in the Clark County survey were culled from the Wyoming and California surveys; however, it should be kept in mind that these previous studies examined attitudes of consumers, not jurors. It appears that when a consumer becomes a juror his or her thinking about some legal issues changes; a juror discards the role of television viewer and potential consumer of legal services to become a participant in the judicial system and is often more sensitive to legal matters. These contrasting roles produce different views about legal service advertising. Also, the older surveys were conducted at a time when lawyer advertising was less prevalent than it is today. As all television
advertising becomes more bold and intrusive, there is speculation that people begin to dislike advertisements of all kinds. It was clear that a large number of Clark County jurors were familiar with television advertising for attorneys; 90% of respondents said that they frequently or sometimes saw lawyer advertising on television.

Juror responses also suggest two other conclusions. First, lawyers who advertise should consider that jurors thought that the most effective approach to use was an informational advertisement featuring the lawyer himself/herself explaining the legal rights of consumers. Second, there is an intense feeling that large lawsuit awards are causing higher insurance rates. Based on questionnaire results and written comments, a very high percentage of respondents seem to be willing to allow lawmakers to put limits on injury awards in order to lower escalating insurance rates.

Results of the questionnaire items regarding the respondents' jury service indicate that the Court Administrator's Office and the judges are doing a good job; jurors understood their role and report excellent treatment by all courthouse personnel.
Demographic data show that those people serving on juries are a reasonable cross-section of the population with all ages, political preferences, sexes, income levels, and educational and occupational backgrounds well-represented. The Court Administrator might consider ways to interest more minorities in jury service; results reported low percentages of non-white jurors.

RESEARCH QUESTIONS

The results of tests examining research question one found that there was a significant relationship between juror attitudes toward attorneys and their attitudes toward attorney advertising. Those respondents holding a positive view of lawyers in general also had a significantly higher opinion of legal service advertising. This conclusion is not particularly surprising; although other studies have found positive public attitudes toward the legal profession, and others have found positive consumer attitudes toward lawyer advertising, this is the first time that the relationship between opinions of jurors toward attorneys and attorney advertising has been examined. One would reasonably expect that people who
have positive feelings about lawyers would similarly approve of lawyers' attempts to bring public attention to legal issues. Because of this, those jurors with positive opinions of the legal profession would logically favor the marketing of legal services.

The outcome of data analysis for research question two was that there was no significant relationship between juror verdicts and juror attitudes toward attorney advertising when the jurors were considered as a whole. However, there was a significant relationship between verdicts and whether or not the plaintiff's lawyer was also a television advertiser. Jurors favored the defendant in a large majority of the trials in which the plaintiff's attorney was a television advertiser. In addition, jurors whose plaintiff's attorney advertised on television rated the plaintiff's evidence significantly lower than jurors whose plaintiff's attorney did not. Jurors whose plaintiff's attorney also employed legal service advertising rated the defense lawyer's presentation and his or her credibility significantly higher than jurors whose plaintiff's attorney was not a television advertiser. There are competing explanations for these findings. Perhaps jurors are not yet prepared to accept this
relatively new practice of lawyer advertising when for nearly 200 years American lawyers did not advertise at all. Jurors may feel that product advertising is desirable but that legal service advertising cheapens an otherwise honorable profession. All the past attitude surveys of attorneys documented a profession which largely believed that their image, dignity, and credibility would be diminished as a result of advertising; maybe they were right. Accepting the fundamental desirability of trial by jury in America, why would these jurors turn their backs on the merits of a case because the lawyer happened to be an advertiser? Perhaps they didn’t; these might have been defense verdicts despite the advertising factor. However, advertising may have had an impact on the verdict. Jurors could be adverse to all television advertising as it becomes more aggressive and invasive, or to attorney advertising in particular. Perhaps jurors react negatively to the style of ad used by one or most advertising lawyers. If the style were different, juror perceptions of that attorney’s case could be different. Based on the written comments of respondents, jurors feel that advertising has increased the number of lawsuits and the amount of jury awards to the detriment of society. Therefore, these jurors may
have a negative impression of any attorney who advertises, which has an effect on the entire case of that attorney including the verdict.

The results of research question three showed no significant relationship between juror attitudes toward tort reform and attitudes toward attorney advertising. However, those jurors who had a higher opinion of lawyers in general also agreed significantly less with the aims of tort reform. These jurors who have a more positive attitude toward the legal profession accept the jury’s role and function in the adversary process of a court trial; they are satisfied with the present system and do not want it changed.

The outcome of tests on responses concerning research question four was that there was no significant relationship between whether or not jurors had ever employed an attorney and their attitudes about attorney advertising. This conclusion is inconsistent with Darden, Darden and Kiser (1981) and Bush and Moncrief (1985); both of these studies found significant differences between users and non-users of legal services concerning their attitudes toward legal service advertising. However, results of the present study did indicate that those respondents who were
currently employing a lawyer had a much more positive view of advertising. Several possible explanations can be considered. It could be that these people have a more liberal view of advertising by professionals. And as this type of advertising becomes more common in the future, attitudes toward attorney advertising may become more positive. It could be that many of these people chose their own attorney through advertising channels, and therefore found advertising to be appropriate and helpful. Perhaps the fact of being in a current working relationship with a lawyer made them more sensitive to controversial issues within the legal profession. If they are satisfied with their attorney/client relationship, they may be inclined to favor their own attorney's viewpoint. Therefore, these people are more likely to have a positive opinion about legal service advertising.

CONCLUSIONS

The major finding of this study has been that although respondent jurors generally do not like lawyer advertising on television, that view does not affect their trial verdicts unless jurors are actually confronted with a plaintiff's lawyer who advertises on
television. When this becomes the case, jurors tend to vote for the defense.

In addition, jurors who have higher opinions of lawyers in general also have higher opinions of legal service advertising. No significant relationship was found between those who had experience in hiring a lawyer in the past and their views on lawyer advertising, but those in current working relationships with lawyers have more positive opinions about legal service advertising.

Also, there is strong sentiment that the law should be changed to limit jury awards; however, those jurors with a higher opinion of lawyers do not generally support this proposition.

An argument can be made that there is a relationship between jurors' negative attitudes about attorney advertising and their positive attitude about tort reform. People see a direct relationship between what appear to be huge court verdicts and their own rising insurance premiums. Jurors make another connection between court verdicts and attorney advertising. Based on the written comments of respondents, jurors believe that lawyer advertisements
cause more accident victims to sue, causing more and larger lawsuit awards, with the result that all liability insurance rates, including their own, escalate. Jurors have been turned against advertising attorneys by the controversy surrounding tort reform. Just as voting behavior for elected officials is largely determined by economic self-interest, so too is voting behavior in jury trials. Americans tend to vote their pocket-books in the voting booth and in the jury room.

LIMITATIONS AND FUTURE RESEARCH

There are some obvious limitations of this study; these include the geographical area, the number of trials, respondents and advertising attorneys included, and the nature of attitudinal studies. Only jurors from the Eighth Judicial District were surveyed; it is not known if juror attitudes in other areas vary significantly from those measured.

If more than fourteen months of trials had been included in the survey, the number of trials and jurors would have been greater and the sample would have been more generalizable to the population. With only 54 civil trials to evaluate, it was difficult to assess
the effect of attorney advertising on juror perceptions and verdicts.

Because the main conclusion of the research involved jury verdicts when the plaintiff's lawyer was a television advertiser, results would have had more validity with a larger number of advertising attorneys included in the survey. There were only a total of thirty respondent jurors in six trials with a plaintiff's lawyer who was also a television advertiser. It could be that these six trials were not representative of personal injury trials; perhaps these particular six cases did not have the most convincing evidence and would have ended in defense verdicts whether the plaintiff's lawyer was a television advertiser or not. No determination could be made from the data concerning the probable outcome of those particular trials independent of the advertising factor. Also, jurors should have been asked if they recognized any of the lawyers in their trial as television advertisers. Because they were not, no determination could be made from the data whether jurors voted against the plaintiff's attorney because he/she was a television advertiser or whether those jurors were even aware that he/she advertised at all.
Nor could it be determined whether jurors made a distinction between the divergent kinds of lawyer ads they had seen on television, some of which they may have appreciated, others rejected. It would be necessary to survey many more juries which included a television advertising lawyer to resolve the confusion about these issues.

Questionnaire design provided major hurdles. The task of designing questions to accurately assess juror perceptions was perplexing. The questionnaire would have provided more in-depth responses and flexibility with the inclusion of several open-ended questions. These were discarded for the sake of uniformity, efficiency and a higher response rate. Certain questions were eliminated to avoid bias in answers, such as asking directly if the jurors felt they had been influenced in any way by attorney advertising. The most difficult task of this survey was to construct questions which could accurately answer the research questions.

This study was the first to specifically examine attitudes of jurors toward legal service advertising. There exists a paucity of literature on this subject. More research is needed to assess juror perceptions of
attorney advertising. It is true that a traditional function of the jury has been its role in bringing the community's attitudes and values into the formal legal system, and in this sense a juror is no more or less a typical consumer of goods and services and a member of the community. However, jurors fulfill the special function of arbitrating disputes of other individuals in society; because of their special circumstances they deserve research studies which are separate and apart from those of consumers.

To determine if the results of this survey are valid or generalizable, future research should survey many more jury members whose trials include lawyers who advertise on television.

To observe whether the findings of this survey change over time, a longitudinal study could use the same sampling technique and the same instrument at a later date.

In order to determine whether the responses to this survey were parochial, the same survey could be conducted in a different community, or preferably in several locations.
Additional research on the subject might include experimental studies. Experiments could be designed to determine the most effective style of lawyer television commercial by showing different versions of televised advertisements to different groups. Another experimental approach could focus on jury verdicts with advertising and non-advertising attorneys. In this scenario, different mock jury panels could be given the same condensed trial, perhaps videotaped; one panel would be presented with a trial featuring a recognizable television advertiser as one of the lawyers, the other panel would see no television advertisers in their trial. Jury deliberations and verdicts could then be compared. Another experiment could use the framework just described with the lawyer in one panel employing a tasteful, stylish television advertisement, while the lawyer in the other panel used a crass, graphic and aggressive advertising approach. Jury deliberations and verdicts could be compared.

Attorneys are only recently beginning to utilize public opinion concepts. It has been the business of lawyers to manipulate public opinion in small group settings, for the jury; lawyers call this advocacy. It remains to be seen if lawyers' own public communication
strategies, their advertisements, are also manipulating the jury. Continued research in this area will provide more understanding of how attorney advertising affects and impacts on the community at large and on the courtroom community of jurors.
APPENDIX A

COVER LETTER
October 1, 1987

Dear Juror:

Thank you again for serving as a juror in the Eighth Judicial District Court.

We hope you will assist us by answering the enclosed questionnaire which will provide some important and needed information. Your impressions while serving as a juror will help us evaluate and improve our judicial system and current court procedures. Your response will be held in strict confidence and will be tabulated with those of other jurors. This survey is a joint venture of the Court and the U.N.L.V. Department of Communication Studies.

Please write any additional comments on a separate sheet or on the reverse side of the questionnaire. We welcome your comments about any weaknesses you observed in the jury system, your physical accommodations as a juror, your treatment by the various court personnel, your evaluations of the Judge, attorneys and witnesses, and any improvements or changes you would recommend.

Please use the pre-paid envelope to mail us your completed questionnaire.

We are grateful to citizens who have honore their jury summons. Your answers will help us to better understand how you and other jurors feel about legal issues and the judiciary.

Yours truly,

Anna L. Peterson
Court Administrator

ENCLOSURES
APPENDIX B

THE QUESTIONNAIRE
FIRST, WE'D LIKE TO ASK YOU SOME QUESTIONS ABOUT YOUR JURY EXPERIENCE.
PLEASE RATE THE WAY YOU FEEL ABOUT THE FOLLOWING.
MARK AN "X" IN THE APPROPRIATE COLUMN.

<table>
<thead>
<tr>
<th></th>
<th>EXCELLENT</th>
<th>GOOD</th>
<th>FAIR</th>
<th>POOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Rate your experience as a juror.</td>
<td></td>
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<tr>
<td>2. Rate your introductory orientation as a juror.</td>
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<tr>
<td>3. Rate your treatment by court personnel.</td>
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<tr>
<td>4. Rate the presentation of the lawyer representing the plaintiff (the injured party bringing the lawsuit).</td>
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<td>5. Rate the evidence presented by the plaintiff.</td>
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<tr>
<td>6. Rate the credibility and sincerity of the plaintiff's lawyer.</td>
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<td></td>
</tr>
<tr>
<td>7. Rate the presentation of the lawyer representing the defendant.</td>
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</tr>
<tr>
<td>8. Rate the evidence presented by the defense.</td>
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</tr>
<tr>
<td>9. Rate the credibility and sincerity of the defense lawyer.</td>
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<tr>
<td>10. Rate the judge's explanation of court delays.</td>
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<tr>
<td>11. Rate the Nevada court system, as you came to know it.</td>
<td></td>
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<tr>
<td>12. For the final verdict of the trial in which you were a juror, did you vote with the majority of the jurors?</td>
<td>YES</td>
<td>NO</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. After reaching a verdict, did you want to discuss the trial with the lawyers?</td>
<td>YES</td>
<td>NO</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SECOND, WE'D LIKE TO KNOW HOW YOU FEEL ABOUT LAWYERS.
PLEASE CIRCLE THE APPROPRIATE RESPONSE.

<table>
<thead>
<tr>
<th></th>
<th>VERY POSITIVE</th>
<th>SOMEWHAT POSITIVE</th>
<th>SOMEWHAT NEGATIVE</th>
<th>VERY NEGATIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>14. In general, what is your opinion of lawyers?</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>15. Have you ever hired a lawyer to do legal work for you?</td>
<td>YES</td>
<td>NO</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16. If you have, what type of work have you hired a lawyer to do for you?</td>
<td>PERSONAL AFFAIRS</td>
<td>BUSINESS OR TAX ADVICE</td>
<td>DEFENDING A CRIMINAL CHARGE</td>
<td>DEFENDING A CIVIL LAWSUIT</td>
</tr>
<tr>
<td>17. Rate the service you received most recently from a lawyer.</td>
<td>EXCELLENT</td>
<td>GOOD</td>
<td>FAIR</td>
<td>POOR</td>
</tr>
<tr>
<td>18. Are you currently employing a lawyer?</td>
<td>YES</td>
<td>NO</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19. How often do you see lawyer advertising on TV?</td>
<td>FREQUENTLY</td>
<td>SOMETIMES</td>
<td>SELDOM</td>
<td>NEVER</td>
</tr>
<tr>
<td>20. Overall, how do you feel about lawyer advertising on TV?</td>
<td>VERY POSITIVE</td>
<td>SOMEWHAT POSITIVE</td>
<td>SOMEWHAT NEGATIVE</td>
<td>VERY NEGATIVE</td>
</tr>
</tbody>
</table>
NEXT, WE'D LIKE TO KNOW HOW YOU FEEL ABOUT THE FOLLOWING STATEMENTS. PLEASE INDICATE WHETHER YOU STRONGLY AGREE, SOMEWHAT AGREE, SOMEWHAT DISAGREE OR STRONGLY DISAGREE WITH EACH STATEMENT. MARK AN "X" IN THE APPROPRIATE COLUMN.

21. If asked, I would gladly serve as a juror again.
22. Serving on a jury was more difficult than I expected.
23. I clearly understood the jury instructions read by the judge before deliberation.
24. Large lawsuit awards cause higher insurance rates.
25. Changes in the law to limit jury awards would be a good thing.
26. Lawyer advertising is helpful in choosing a lawyer.
27. Lawyer ads should contain price information.
28. Lawyers who advertise on television are not credible or believable.
29. Advertising by lawyers will increase competition among lawyers, and will lower the prices of legal services.
30. People are more aware of their legal rights now than they were before lawyer advertising began.
31. Lawyer ads depicting accident victims are effective.
32. Lawyer ads showing the lawyer himself explaining the legal rights of consumers are effective.
33. Lawyer ads presenting a spokesperson discussing a lawyer's qualifications are effective.
34. Overall, the effects of advertising by lawyers will be beneficial to society.

FINALLY, WE'D LIKE TO KNOW MORE ABOUT YOU. AGAIN, THIS INFORMATION WILL BE GROUPED WITH OTHER JURORS FOR STATISTICAL PURPOSES ONLY. PLEASE MARK THE APPROPRIATE RESPONSE WITH AN "X."

35. POLITICAL PREFERENCE: _____ Democratic _____ Republican _____ Nonpartisan _____ Other
36. EDUCATION: _____ Elementary _____ Junior High Grad _____ High School Grad _____ College Grad
37. ANNUAL FAMILY INCOME: _____ Under $14,000 _____ $14-$25,999 _____ $26-$37,999 _____ $38-$49,999 _____ Over $50,000
38. RACIAL BACKGROUND: _____ White _____ Black _____ Hispanic _____ Asian _____ Other
39. OCCUPATION: _____ Unemployed _____ Professional/Managerial _____ Sales/White Collar _____ Blue Collar _____ Retired _____ Homemaker _____ Student _____ Other
40. MARITAL STATUS: _____ Single _____ Married _____ Divorced _____ Widowed
41. AGE RANGE: _____ 18-24 _____ 25-34 _____ 35-44 _____ 45-54 _____ 55-64 _____ Over 65
42. SEX: _____ Male _____ Female

THANK YOU FOR FILLING OUT THIS QUESTIONNAIRE. PLEASE WRITE ANY ADDITIONAL COMMENTS YOU WISH TO MAKE ON THE BACK, AND RETURN IN THE PRE-PAID ENVELOPE.
BIBLIOGRAPHY


