



Gorilla Marketing

Is your law firm advertising ethical and PETA-friendly? By Micah Buchdahl

The rekindling of a long-standing debate in Florida regarding the use of a pit bull in law firm advertising beckons the question: Is your law firm's advertising PETA-friendly, as in the promotional ethical treatments of animals?

The advertising by the two-attorney "1-800-PITBULL" law firm of Pape & Chandler of Fort Lauderdale could signal the need to go beyond the American Bar Association's Ethics 2000 model rules initiative, now being adopted by many states, and begin formation of a committee of lawyers, veterinarians and zookeepers, to determine which animals pass "ethics muster" for use in law firm advertising.

The complaint against using a pit bull in law firm advertising takes aim at model rule 7.1, which focuses on communications concerning a lawyer's services, namely avoiding messages that are false or misleading. In this case, the suggestion that the dog creates unjustified expectations, is misleading and manipulative. Bad doggie! Who will decide which breeds of dogs are ethical? In a profession still trying to figure out what proper marketing is, are we barking up the wrong tree to try?

An attack on dogs could spell the kennel for Winston the Bulldog, Womble Carlyle Sandridge & Rice's tenacious mascot. The Southern firm has used Winston in its advertising for years — in print, online and in airports — without so much as a sanction.

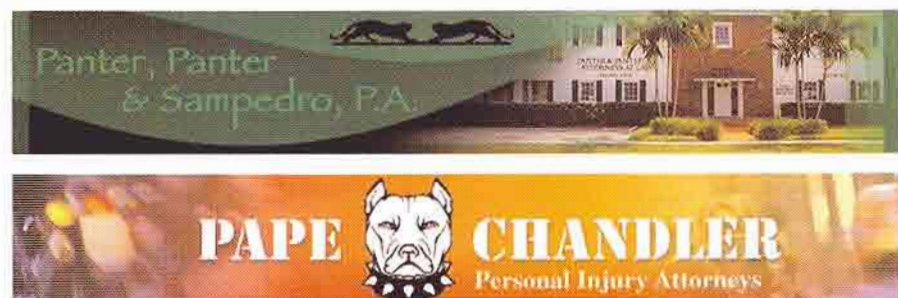
Panther, Panther & Sampedro, another Florida firm, faced alleged ad violations for using a panther. Yet, in the animal-friendly northeast, Saul Ewing features an animal-focused ad campaign that includes sheep (diversity), a wolf (litigation), owl (real estate) and a leopard (business law). I don't know about you, but I think that the wolf and leopard suggest the same message to a corporate counsel as a pit bull sends to a consumer.

As a Pennsylvania-licensed attorney, the Saul Ewing animal ads worry me. Owls are shifty. They come out at night. And they prove to be uncooperative at trial and in depositions, responding "who?" to every question. And how about suggesting a connection to the local Temple Owl (my undergrad and law school alma mater), where legendary basketball coach John Chaney's long-standing mantra "winning is an attitude" might suggest a propensity toward certain results.

Enterprising lawyers might use innocent-looking goldfish, which could create

Lots of law firm ads feature animals. Frost Brown Todd uses a watchdog with the tagline "protect your stuff." Baker Botts uses a white bird to promote its environmental practice. Bingham McCutchen uses a dog in a black turtleneck, that looks quite metrosexual.

In the July 12, 2004 issue of the *Miami Daily Business Review*, Florida Bar counsel Randi Klayman Lazarus, who is prosecuting the pit bull case, was quoted as saying the image of a pit bull "is not objectively relevant because it is not informational and it is manipulative because it appeals to the emotions of the consumer, as the pit bull is commonly perceived as aggressive, unrelenting, loyal and determined." In a letter to the bar defending the pup, John Pape writes that the animal "engen-



"unjustified expectations" (i.e., gold = big money verdict). A parrot could be used in violation of ABA model rule 7.3, allowing attorneys to get around the solicitation restrictions by training birds to repeat promotional messages to accident victims.

New Florida Bar rules now allow "non-celebrity" actors to appear in TV ads. I can hire the pig from Green Acres, Arnold Ziffel (when did he work last?), to promote a firm, but not movie star Babe. Yes to Mr. Ed, but no to Smarty Jones. Magilla Gorilla is in that gray area. Should the ethics rules offer commentary regarding real animals vs. cartoons? After all, Pape & Chandler uses a pit bull logo, not a real pit bull.

ders the principles that characterize our law firm: strength, tenacity and loyalty."

A *Miami Herald* article mentioned that Mr. Pape was contacted by an unhappy breeder upset that this cute doggie was having his name besmirched by being associated with lawyers. Perhaps, animals being used in lawyer ads will seek class action status in a defamation suit against the law firms tarnishing their good names. It seems as good a next step as any. If you can't run with the big dogs, stay on the porch! **SFB**

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