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**THE TRUTH ABOUT
LAWYER
ADVERTISING**

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**THE TRUTH ABOUT
LAWYER
ADVERTISING**

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Ben Glass, Esq.**

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from Winston, Clark & Wigand, P.A.47

CHAPTER 1

Myths about Lawyers and Lawyer Advertising

- All lawyers have basically the same training.
- The bar association determines whether a lawyer can advertise that he or she is a “divorce lawyer” or a “personal injury specialist.”
- All lawyers go to trial.
- All lawyers have basically the same experience.
- A lawyer who is good at DWI cases will be good at personal injury cases.
- All lawyers carry legal malpractice insurance.
- Lawyers who advertise that they accept certain types of cases actually have experience with those types of cases.
- A lawyer who advertises will actually be the lawyer handling your case.

- A “lawyer referral service” is a good way to find the right lawyer for your case.
- Lawyers with huge Yellow Pages ads must be good lawyers, otherwise they couldn’t afford to pay for the ads.
- Lawyers who advertise on TV must be super-successful.
- Lawyers at “Internet Find-A-Lawyer” directory sites are carefully screened for qualifications.

The Truth about Lawyers and Lawyer Advertising

- Not all lawyers have the same training. Warren Burger, former Chief Justice of the United States, once warned that “a lawyer is not qualified, simply by virtue of admission to the bar, to be an advocate in trial courts for matters of serious consequence.” Many lawyers continue their professional training throughout their careers, but for some, the last time they learned anything new about their craft was in law school.
- The bar association does not determine whether lawyers can advertise that they are “divorce lawyers” or “personal injury specialists.” There are virtually no restrictions on what types of law a lawyer may advertise for.
- Not all lawyers go to trial; some who advertise for personal injury or medical malpractice cases have never gone to trial.

- Not all lawyers have the same experience. This may seem obvious, but many people (and some lawyers) think “a lawyer is a lawyer is a lawyer.”
- A lawyer who is good at DWI cases won’t necessarily be good at personal injury cases. While this may have been true in the “old days,” today the practice of both DWI and personal injury cases is highly specialized. The same goes for just about every other type of law.
- Not all lawyers carry legal malpractice insurance. It is perfectly legal for a lawyer not to purchase malpractice insurance. Shockingly, they are not required to tell you who they are! You must ask for this information.
- The fact that lawyers advertise that they accept certain types of cases does not necessarily mean that they actually have experience with those types of cases. Again, there are no strict rules prohibiting lawyers from advertising for cases with which they have no experience. Not all lawyers who advertise in the Yellow Pages for malpractice cases, for example, actually have real experience handling malpractice cases.
- A lawyer who advertises won’t necessarily be the lawyer handling your case. Some lawyers advertise for cases simply to refer them to other lawyers. What do they expect to get for this? A big, fat referral fee.
- A “lawyer referral service” is not necessarily a good way to find the right lawyer for your case. Lawyers pay to be on

these lists, and no one checks to see whether the lawyer has experience in your legal matter.

- A full-page ad in the Yellow Pages is not necessarily a sign of success. Some lawyers run a “volume practice,” hoping to make a little money off each case—usually by settling most if not all of the cases. Believe it or not, in some offices paralegals handle virtually entire cases. The only time you see your lawyer may be when his or her face is on a TV, billboard, or Yellow Pages ad.
- Most Internet lawyer directories are nothing more than another advertising media. Lawyers are solicited daily to pay big bucks to have an “exclusive listing” as personal injury specialists in a particular city. The check they mail is sometimes their only “qualification.”

Have you ever seen headlines like these?

“Florida Accident Victim Has Case Thrown Out of Court Because Lawyer’s License Had Been Suspended”

“Lawyer Disciplined by State Bar Association for Ads That Showed Him in Court Even Though He Had Never Tried a Case to a Jury”

“Lawyer Who Runs Huge Yellow Page Ads Soliciting Medical Malpractice Cases Swears He’ll Never Go to Court Again”

“Law Firm Disciplined for Deceptive Ads Showing Insurance Company Settling Cases on the Mere Mention of Its Name”

CHAPTER 3

What is This Book About?

It wasn't until 1977 that lawyers were allowed to advertise. Before that time, in order to find out anything at all about a lawyer, you had to talk to one. Then, two lawyers in Arizona got bold and began advertising "low prices." Other lawyers tried to put a stop to this—probably so that they could keep ripping off people with high fees. The bar association tried to ban their ads. Their case went all the way to the Supreme Court, which ruled that lawyers could advertise.

When the Court wrote, "[T]he only services that lend themselves to advertising are the routine ones; the uncontested divorce, the simple adoption, the uncontested personal bankruptcy, [and] the change of name," it obviously could not have predicted what was to come.

More than thirty years later, lawyer advertising has gotten out of control. When Bextra, a leading pain medication, was pulled from the market suddenly, I was inundated within hours with

emails and faxes encouraging me to “Buy Bextra Ads” because, as one email put it:

Bextra is being pulled from the market today. The time to advertise is now. I can help. There will be lots of competition for these cases—we can run ads immediately.

The problem was that at the time I had no experience handling a defective drug case, yet this lawyer (yes, it was a lawyer who sent the ad) was soliciting me to buy ads so that I could, I guess, refer those cases to him (for a big fat referral fee). Sometimes they even offer to pay me to advertise in order to get “local recognition.” They still want the cases, though.

Yes, lawyer advertising is out of control.

I looked through the Yellow Pages the other day at the lawyer ads. There were forty-seven pages of lawyer ads, and some of the ads were splashed over two pages! One showed a horrendous scene of an overturned car with a helicopter overhead; another sported a picture of a snarling tiger.

Just turn on the TV. All lawyer ads seem to say the same thing:

If you’ve been in an accident, call me. Quick! Right now! I can get you the money you deserve. It costs you nothing. I care about you!

I turned back to the Yellow Pages, looking for something that might actually *help* consumers figure out if they really needed a

lawyer and, if so, how they could choose the right lawyer for their case. I was looking for solid information, not fluff. Instead I found nothing but these slogans:

“Major Accidents Only”

“Settlements in 30 Days!”

“No Office Appointment—No Court”

“Cash for Your Pain”

“100 Years’ Combined Experience”

“Quick Settlement of Your Injury Case”

“Aggressive Legal Representation”

“Legal Help for the Seriously Injured”

“We’ll Refer You to the Right Doctor”

“If You Have a Phone, You Have a Lawyer”

“We’re the Law Firm that Cares About You”

“Aggressive, Experienced, Compassionate”

“No Recovery—No Fee”

“Free Consultation”

“Member of Million Dollar Roundtable”

“The Law is my Profession”

“AV-Rated”

“Highest Rated”

“Fighting for Justice in an Unjust World”

“We Will Fight For You”

“Biggest Verdict in the City”

“\$5,000,000 Recovery in Car Wreck Case”

“Full Service Law Firm”

CHAPTER 4

A Train Wreck Waiting to Happen

A while ago, a local lawyer called me with a “great case” he wanted to “share” with me. He explained that it was an automobile accident case with “great damages” and that he was willing to let me handle the case for him for a portion of the fee.

I invited him over, and when he and I sat down to look at the file, this is what I found:

- The accident had happened over six years ago
- This lawyer had represented the victim for over five years
- Trial was in sixty days
- There were no photographs of the vehicles
- There were no photographs of the accident scene
- The lawyer had not taken the defendant’s deposition
- The lawyer’s own client had been deposed, but he had never ordered the transcript

- The lawyer had never talked with the victim's doctors about the case

The lawyer told me that he never went to trial because he was deathly afraid of trial work!

I politely declined this imminent disaster and picked up the Yellow Pages and turned to the lawyer's ad. There it was, a list of fourteen different "specialties," including "serious auto accidents." The truth of this matter was that if this lawyer's client had done any of the checking that we recommend in this book, she would have found that this lawyer was not on anyone's list of lawyers to do battle with the insurance company. You see, anyone can run an ad.

How in the World Can Consumers Tell the Difference Between One Lawyer and Another by Looking at These Ads?

Much of the advertising I see on TV and in the Yellow Pages disturbs me, and it does so for five reasons:

1. Surveys show that many people have a poor view of lawyers because of the lawyer advertising they see! The bad taste of some lawyers makes *all* lawyers look bad.
2. Lawyer advertising sometimes negatively affects people on juries. How would you like your lawyer to be arguing your case to a jury only to have its members remember that he or she is the lawyer who flies around in a flying saucer in TV ads or equates pain and suffering to *big money damages*?
3. There is no way for the consumer in need of legal services to tell one lawyer from the other based on most lawyer advertising. The ads don't give any *useful* information.

4. Even if not false, deceptive, or misleading, most lawyer advertising just isn't all that helpful to the consumer. What's the difference between "Buy this beer" and "Quick! Call 1-800-LAWYERGIMMICKNUMBER right now?"
5. Some lawyer advertising creates unjustified expectations. If other lawyers advertise "One call—no court—settlements in 30 days," then my clients want to know how come I can't do that for them.

I can't change the way lawyers advertise, but I can help *you* make your way through the morass. Look—good lawyers are out there... lots of them. You just have to do some work to find the right lawyer for your case.

Legal Disclaimer

Hey, what would a message from a lawyer be without a "disclaimer"? Look—I can give you ideas and tips, and I personally guarantee that you won't have wasted your time by reading this book, but I can't guarantee you absolute success in finding the right lawyer for your case. I can't even give you one absolutely foolproof way to get to the right lawyer, but...

Reading This Book Can Greatly Increase Your Odds of Finding the Right Lawyer for Your Case.

CHAPTER 6

You Need a System to Find the Right Lawyer for You

First, let's just forget about the ads altogether for a while. After all, wouldn't you *expect* your lawyer to care about you? Be aggressive? Give personal attention to your case? Fight for you? Since all lawyers should do all of the above, we can safely come to the conclusion that:

Ads that tout such "benefits" are absolutely, 100 percent meaningless. Period.

Rather than taking your chances on a Yellow Pages ad, a TV commercial, or a "lawyer referral" service, you really should have a system for finding the right lawyer. Does that sound like work? Well, it is work because it is important. And it *should* be. Finding the right lawyer for you is very important. It's not like getting the right carpet cleaner or pest control guy. If you are looking for a lawyer, it is usually because ...

Something very important has happened or is about to happen in your life.

It may be that you have been injured. You may be starting a new business. You may want to adopt a child. Perhaps you are going to be divorced. Whatever it is, it's probably at the top of your list of things that are very important in your life.

So let's take a look at a systemized way to find the right lawyer for your case. We'll go over what questions you must ask. We'll look at what organizations and "ratings" are important and which aren't. After that, we'll come back to teach you how to "read" lawyer advertising.

Finally, a System for Finding the Right Lawyer for Your Case

Step One: **Start to Learn About Your Legal Problem**

In the old days, the law was pretty much a secret. The *only* way you could get your questions answered was to talk to a lawyer.

Not anymore.

Now, with the advent of the Internet, there is no longer any excuse for anyone to not gain a basic understanding of legal problems.

- Search the Internet for FAQ's (Frequently Asked Questions) about your legal problem.
- Visit lawyer websites.
- Visit chat rooms.
- Visit other legal websites.

Now remember, I am not saying that all this information and advice you find on the Internet is any good, but all you are doing at this point is collecting information—finding out “what ballpark you are playing in”—even before you talk to a lawyer. Some of the information you find may be flat-out wrong—that’s why you visit lots of sites because it would be foolish to rely on information at any one website. The purpose here is simply to move you along the path of knowledge so that you can make an informed decision about what lawyer to hire.

On page 43 I list a number of websites you might look at. Remember, though, that if a law firm is listed on one of these sites, all it took was a checkbook (sometimes a big fat checkbook) to get there.

Next, take a visit to the library. Remember the library? I regularly visit the library, a fantastic resource of free information. Even though we have the Internet, there is nothing like a good old-fashioned book to start you on the right course. Every city has one!

We Take Our Cases to Trial—Not!!!

Can you believe everything you see on TV? Phoenix, Arizona, attorneys Stephen M. Zang and C. Peter Whitmer ran a huge print and TV campaign to market their four-year-old law firm. The campaign was obviously “successful” in that it produced over 1,600 personal injury cases in four years. According to the official opinion of the Supreme Court of Arizona, these ads contained the following tag lines:

- We are a personal injury law firm with the medical experience to understand complicated injuries.
- We have investigators to find witnesses and hidden evidence.
- Detailed preparation is a part of our law firm because the better your case is prepared for trial, the more likely your case will settle out of court.
- If you are in an accident, you need more than a lawyer's words.

The ads were accompanied by dramatic scenes featuring either a judge in a courtroom, books about accident cases and medicine, a large witness box, or a picture showing one of the attorneys arguing before a jury in the courtroom.

This is what the Supreme Court of Arizona found when it examined the facts:

- From the time the firm was formed, no attorney at the firm had tried a personal injury case to conclusion.
- Zang, who was pictured in the ads arguing in front of a jury, conceded that he was not competent to try a personal injury case.
- The firm had a policy of not taking cases to trial.
- In those cases where trial was necessary, the attorneys' policy was to refer the case to real trial lawyers in other firms.

- The lawyers' intention was to settle all cases, but clients were not told this.
- Clients were never told of the lack of experience or the fact that their cases would be referred to other attorneys if a trial was necessary.

The lawyers were justifiably suspended by the State of Arizona from practicing law.

Step Two: Start to Gather Names of Potential Attorneys

Here are your sources of information. Remember, you are still in the information-gathering process.

1. Think about your problem. What have you learned about your type of case? Now, can you summarize your problem in twenty words or less? "I was in a car accident." "I am having a problem with a tenant." "I would like to start an at-home business." "My child was arrested for DWI."
2. Do you personally know any lawyers in your area? They will be a good source of names. Even if your legal need is in another state, ask lawyers you know first. They will probably be able to either refer you to a set of names in the other state or give you the name of someone who can.
3. Do you know anyone who has used a lawyer? At least then, when you call that lawyer, you can say that, "Mary gave me your name, and I'm looking for a lawyer who handles XYZ type of case."

4. Peruse the Internet. Do a search for your “type” of case in your city or state. Don’t bother just typing in “personal injury attorney.” That will return thousands of entries, most from geographical areas far from you. Rather, type in “auto accident attorney in Fort Lauderdale, Florida” or “motorcycle attorney in Plantation, Florida.”
5. Look at the Yellow Pages for lawyers who advertise only one or two closely related specialties. My experience is that usually a lawyer who specializes is better than getting a “jack-of-all-trades” type of firm or lawyer. This is because in the last twenty years the law has become more complex than ever. Many lawyers now specialize in just a few related legal areas. For example, a lawyer who specializes in wills and estate planning may also specialize in elder law planning. A DWI lawyer may handle shoplifting cases. A medical malpractice attorney may handle other personal injury cases. Those ads that proclaim a long list of “specialties” or types of cases are not very helpful, are they?
6. Yes, you can even write down the name of the lawyers you see on TV. You can’t judge lawyers based on the media they use to advertise. While many firms that advertise on TV are running high-volume practices, there are some good skilled and reputable attorneys advertising on TV.

Some People Put More Time and Effort into Buying a Sofa Than into Choosing a Lawyer.

If you don't know who to call for a referral outside our practice area, call us. We know many lawyers in many different specialty areas and can usually point you in the right direction.

Lawyers Disciplined When Their Ads Suggested That Insurance Companies Would Settle at the Mere Mention of Their Name

Indiana attorneys James and Jack Keller ran four television advertisements from a national marketing firm that depicted insurance adjusters in a conference room proclaiming that an automobile accident case had to be settled just because of who the attorneys were. The insurance company appeared to be intimidated at the mere mention of the attorneys' names.

The ads all featured actor Robert Vaughn. The Indiana Supreme Court found the ads to be misleading and disciplined the attorneys. First, they found that since there was no way of knowing whether an insurance company ever really settled cases with the law firm "just on the mere mention of their name," the ads were misleading. The court also found that the celebrity endorsement violated Indiana's Rules of Professional Conduct.

The insurance companies most definitely know who takes cases to trial and who does not. However, each case is settled or not settled, won or lost, based on its individual facts and merits. While experience can be a major factor in making sure that the

facts and merits are presented in the light most favorable to the accident victim, nothing will overcome bad facts. Thus, ads that suggest that the experience and reputation of the attorney are the major reasons why cases are won or lost are misleading.

Step Three:

Call and Ask for Written Information

Call and ask for written information about the lawyers. Just like buying a high-priced consumer product, you are usually better off doing all of your initial research in the comfort of your own home. You don't want to be subjected to any high pressure sales tactics, do you? Most lawyers offer free initial consultations in a variety of cases, and flat fees or reduced rates for an initial consultation in other areas. That probably is not the *most efficient* way of getting information.

The better course is to call and ask them to send you their "information package" on *your specific type of case*. Ask them to send you anything they would like you to read that would convince you to hire them as your attorneys. Remember, while there are time limits for filing suit, in most cases you have time to do your research in the comfort of your own home, on your own time. (I told you this was work, didn't I?)

Hint: Beware of any lawyer who phones you first or has someone else directly solicit you in person after you have been injured. In-person solicitation by a lawyer (or someone representing a law firm) who does not have a prior relationship with you is universally condemned.

Some lawyers may contact you by mail after you have been in an accident. No problem with that. You can just throw the letters away if you want. But the better practice (remember, we are information gathering) may be to just call and ask them to mail you everything they have that would be useful in deciding whether to hire their law firm. If they say, “The only way to get this information is to come in,” all you have to do is hang up.

After you have done your preliminary homework, narrow your search to three to five lawyers who appear to be experienced with your legal problem, make an appointment, and interview them. There is no substitute for an in-person interview. No matter how experienced or successful they are, you have to feel comfortable with them. You have to trust them. Many will meet you in your home if you cannot travel to the office.

Step Four:

Now That You Have Arranged an In-Person Interview, Ask the Right Questions if You Are Looking for a Personal Injury or Medical Malpractice Attorney¹.

Remember: the best and most experienced attorneys usually have a line of people begging to hire them. They are usually very selective in the types of cases they will handle. They will not be insulted or put off by these questions. Rather, they will welcome them, because it shows you are taking steps to educate yourself.

1. You need to adjust your questions, based on your research, to your type of case. For example, you don't need to know if the lawyer doing your will has won any large verdicts; rather, you need to know if he or she has experience drafting wills. A Social Security lawyer need not have any experience in front of juries, but this is absolutely essential for any injury or malpractice case.

We'd all much rather represent someone who does this than gets wacky advice from a cousin or neighbor.

1. How many years have you been in practice?
2. Do you have actual experience handling my type of case?
3. Where can I read about your other cases?
4. What is the hardest part about my case?
5. Have you won any large verdicts or settlements?
6. Are you board certified by any state or nationally recognized organizations?
7. Are you listed in Super Lawyers?
8. Do you carry malpractice insurance?
9. Are you an active member of any state or national trial lawyer organizations?
10. Have you been disciplined by your state bar association?
11. What is the process for handling my case?
12. Who in your office will be working on my case?
13. How will you keep me informed about my case?
14. What is my case worth?²

2. This is actually a trick question—in almost all cases it is impossible for a lawyer to determine the value of a case on the first visit. This requires study and analysis of your injuries and other losses suffered. Beware of anyone who states with any certainty (in all but the smallest of cases) the “value” of your case on the first visit.

15. Do you represent any insurance companies at all? (You really need to know where their interests lie. Some lawyers do most of their work for the insurance companies. This may suit you just fine. For others, the appearance of bias would be too much.)
16. Do you represent any corporations (besides “mom and pop” local businesses)? (Again, if you are calling about an injury case, you may want to find an attorney who is passionate about representing individuals—not big businesses.)
17. Can I take a copy of the written fee agreement home with me to study? (There is no “standard” fee and no standard fee agreement. Do not assume that if you’ve seen one you’ve seen them all.)
18. (If you are looking for an injury, disability or malpractice attorney, ask) Do you spend at least 90 percent of your time representing individuals against insurance companies in injury, disability, and malpractice cases?³
19. Do you regularly attend continuing legal education courses in your area of expertise?
20. Do you teach continuing legal education courses to other lawyers?

3. I am going to assume that the lawyer is actually licensed in the state where the legal work is to be done. I used to think this was self-evident until I started getting calls from lawyers not licensed in Florida who were “handling” difficult malpractice cases and now were in a panic because the insurance companies wouldn’t talk to them and the cases had to be filed. More recently, the Florida Supreme Court threw out an auto accident victim’s case because the lawyer’s license to practice in Florida had been suspended. So check to make sure your lawyer is licensed in the state where the claim will be brought. I am also going to assume that the lawyer carries malpractice insurance. For some reason, this is not *required* in Florida, so you need to ask.

21. What is your Martindale-Hubbell rating?
22. Have you published any articles, guides, or books for consumers or other attorneys?

And The Best Question of All:

Who else should be on my list of attorneys to talk to?

This is a great question because the names you see coming up time and time again when you ask this question are as close to a “sure bet” to be the right lawyer as you can get!

All good, competent, honest attorneys will freely share their information with you. These are the attorneys who have as much (or more) work than they can handle. If they won't give you any other names—leave! It just may be a huge warning sign that they are starving for business.

Step Five:

Rank the Information in Terms of Importance

While you certainly would get a range of opinions on what is “most important” about hiring a lawyer, surveys show that most consumers probably rank order the qualifications this way:

1. Consistent results in the past: Yes, “past results are no guarantee of future results,” but the lack of consistent results in the past would be a warning sign. Yes, we all lose cases we probably should have won (and we've won cases we probably should have lost,) but the lack of a track record of quality results is a deal breaker for most people. Don't

accept the excuse that “this is all confidential and we aren’t supposed to talk about past results.” This simply is not true. Each week, the legal newspapers publish settlements and verdicts. Many lawyers also have this information on their websites.

2. Experience: Simply put, the longer you have been doing anything, the better you probably are at doing it.
3. Board Certification by The Florida Bar. As I outline later in this book, the process to become certified is rigorous.
4. A listing in Super Lawyers. These are true peer ratings. Unlike most other “lawyer guides,” you can’t pay to be listed.
5. “AV” rating from Martindale Hubbell: lawyers and judges confidentially rate other attorneys for ability and ethics.
6. Teaching at continuing legal education events.
7. Active participation in trial lawyer associations.

Don’t be afraid to ask about results. Yes, each case is different, and the past does not predict the future, but the lack of a track record of significant results should at least prompt you to *ask more questions*.

"Best Possible Settlement...Least Amount of Time"

The above "tag line" on Indianapolis attorney Vaughn Wamsley's full-page Yellow Page ad was followed by the statement, "My reputation, experience and integrity result in most of our cases being settled without filing a complaint or lengthy trial."

The Indiana Supreme Court said that, "by claiming that he could obtain the best possible settlement in the least amount of time, the attorney likely created an unjustified expectation of such a result in any case that he handled." The court found that the statement was misleading and deceptive. The court also found that another statement with no disclaimer, "I have helped thousands who have been seriously hurt or lost a loved one," was a prohibited statement that suggested that past performance was a prediction of future success.

The attorney was disciplined for making these statements.

We agree with the Supreme Court that, "when accomplished within ethical strictures, advertising of legal services facilitates the process of informed selection of lawyers by consumers of legal services. However, advertisements containing misleading or deceptive assertions make truly informed selection impossible."

What Does it Mean When a Lawyer is Board Certified, Listed in Super Lawyers, or is Highest Rated?

Board Certification by The Florida Bar



We know that many doctors are “board certified,” but did you know that there is a national certification process for lawyers?

The Florida Bar has a Board of Legal Specialization and Certification in Civil Trials.

Board certification in civil trial by The Florida Bar requires that an attorney have:

- A minimum of five years in law practice
- A satisfactory showing of substantial involvement in the field of law for which certification is sought

- A passing grade on the examination required of all applicants
- Satisfactory peer review assessment of competence in the specialty field as well as character, ethics, and professionalism in the practice of law
- Satisfaction of the certification area's continuing legal education requirements

Not all qualified lawyers are certified, but those who are board certified have taken the extra steps to have their competence and experience evaluated. Only 7 percent of eligible Florida Bar members are board certified.

To check if a lawyer is certified by The Florida Bar, go to *www.FlaBar.org*.

Super Lawyers — High Recognition by Peers

Super Lawyers selects attorneys using a rigorous, multiphase rating process. Peer nominations and evaluations are combined with third-party research. Each candidate is evaluated on twelve indicators of peer recognition and professional achievement. Selections are made on an annual, state-by-state basis.

The objective is to create a credible, comprehensive and diverse listing of outstanding attorneys that can be used as a resource for attorneys and consumers searching for legal counsel.

The Super Lawyers selection process involves three basic steps: creation of the candidate pool; evaluation of candidates by the research department; and peer evaluation by practice area.

The final published list represents no more than 5 percent of the lawyers in the state. The lists are published annually in state and regional editions of Super Lawyers magazines and in inserts and special advertising sections in leading city and regional magazines and newspapers.

The New Jersey Supreme Court examined the evaluation process and reports, “The Super Lawyers selection process is a comprehensive, good-faith and detailed attempt to produce a list of lawyers that have attained high peer recognition, meet ethical standards, and have demonstrated some degree of achievement in their field.”

Super Lawyers is one more source that you can use to find the right lawyer for your case. That doesn’t mean that every lawyer who has been accepted by that publication is the best lawyer for you. Every case and every client is different.

Want to check to see if a lawyer is listed in Super Lawyers? Go to www.superlawyers.com.

Martindale-Hubbell’s “AV” Rating

What does it mean when a lawyer says they have the “highest rating” or are “AV^{®4} rated?” Usually this is a reference to the

4. The “AV” symbol is a registered trademark of Martindale-Hubbell.

Martindale-Hubbell directory of attorneys. Martindale-Hubbell is a comprehensive guide to attorneys. This publication contains ratings of attorneys. No one can pay for a high rating.

According to Martindale-Hubbell, it initiates the rating process on lawyers in five-year intervals after their admission to the bar. The company requests confidential opinions from other members of the bar, including those who are rated and those who are not. In addition, judges are queried. On average, Martindale-Hubbell contacts more than 400,000 individuals to establish or confirm ratings for over 115,000 attorneys each year.

Lawyers in Martindale-Hubbell are rated on both legal ability and general ethical standards. The legal ability rating takes into consideration the standard of ability for the area in which the lawyer practices. The legal ability ratings are: C—good to high; B—high to very high; and A—very high to preeminent. The general ethical standards rating covers adherence to professional standards of conduct and ethics, reliability, diligence, and other criteria relevant to the discharge of professional responsibilities. The general ethical standards rating is V—Very high.

Thus, an attorney who advertises that he or she is AV Rated has been judged by peers to have very high ethical standards and to have very high to preeminent legal ability. Law firms also receive ratings; however, a law firm is given the rating of its highest-rated principal (owner). Martindale-Hubbell says that the rating of a firm has no bearing on the individual rating of any lawyer connected with it.

It is important to note that Martindale-Hubbell says that the absence of a rating should not be construed unfavorably. There are a variety of reasons why an attorney may not have a rating.

Just What Are Those Ads Really Saying?

I'll explain some of the elements that you may see in lawyer advertising. It is important to be able to "read" the ads in order to know what may be important and what is meaningless.

- **"No Fee if No Recovery"** – generally, this means that there will be no attorney fee payable to the attorney if your case is not settled or won. This does *not* mean that there will be no fees at all. There are many costs involved in a case, from filing fees to expert witness fees and, generally, the client will remain responsible for those costs.
- **"Free Initial Consultation"** – offered by almost 100 percent of personal injury, medical malpractice, and workers' compensation attorneys. Standard practice. May take place in person or over the phone.
- **Member of "Million Dollar Roundtable" or "Million Dollar Advocate" Club** – technically means that the attorney has

settled or won a case for \$1 million or more. Remember, though, that one way to get a \$1 million case is to screw up a \$5 million case. It is *consistent results*, not one lucky throw of the dice, that count.

- **"The 'Best Civil Lawyer in XYZ County'"** – an unethical and meaningless statement, since no one can prove this statement, even if it refers to a poll of local residents.
- **"28 Years' Combined Experience"** – meaningless. There could be seven lawyers in the firm with four years' experience each but none with any experience with your case. You need to ask the right questions. Some law firms have been disciplined for including the "experience" of their now-dead "founding fathers."
- **"Former Prosecutor"** – might be important if you are charged with a crime.
- **"Member of the American Trial Lawyers Association"** – there is no such organization. They are probably referring to the American Association for Justice—but how active can they be if they get the name wrong?
- **"Member of the American Bar Association"** – meaningless—all it takes is a check.
- **"Former Judge"** – meaningless—and, if used to suggest that the lawyer has influence over current judges, highly unethical.

- **"Largest Verdict in The City"** – may be important, and may be meaningless. You need to ask questions. Usually considered unethical to state this without an appropriate disclaimer. Remember, *consistent results matter*.
- **"We Come to You"** – meaningless—everyone does this for the right case, but no one does it for every case. (Although there have been firms known to send a courier right over—with a contract for you to sign. Anyone who signs an attorney contract or fee agreement without having personally met the attorney and asked the right questions has only himself or herself to blame.)
- **"Experienced, Aggressive, Compassionate—We Care About You...We'll Fight For You"** – Give me a break. Isn't this what you expect your lawyer to say and do for you?
- **"If You Have a Phone, You Have a Lawyer"** – ridiculous.
- **"You May Be Entitled to Cash for Your Pain"** – ridiculous—makes it sound like this is a Lawsuit Lottery or that you are "lucky" to have been injured.
- **"Quick Settlements in 30 Days"** – ridiculous. If your case is so small that it can be settled in thirty days, then do it yourself and save the one-third fee!

What about Those Websites Saying That They Have a List of “Qualified Lawyers”?

Here is a list of websites you may want to visit for *initial fact-finding information* about your legal situation.

Lawyers have not paid (and cannot pay) for listings in:

www.SuperLawyers.com

or

www.FlaBar.org (see the list of Board Certified attorneys)

Lawyers have paid for listings at the following sites and, by and large, there is no significant screening of these lawyers before listing them. Often, lawyers have paid either for “exclusive” listings at these sites or for “top spots” or “banner ads.” While there may be some decent legal information for someone on an initial fact-finding mission, we do not recommend any of these sites for actually choosing a lawyer.

www.lawyers.com

www.attorneyfind.com

www.an-attorney-for-you.com

www.injuryhelplineattorney.com

www.legalmatch.com

www.perfectlawyerforyou.com

www.pickalawyer.com

A Final Word to the Wise

You know those 1-800-DAMAGES or 1-800-LAWYERS-type telephone numbers? Be careful. In some cases your call is routed through a call center that randomly sends your call to the next attorney “in line.” Kind of reminds me of used car salesmen waiting to pounce on the next unsuspecting customer.

In other cases, lawyers have bought “territories” for these “vanity” numbers. Even though you think you are calling lawyer Smith, your call is routed to lawyer Jones based simply on the zip code or area code you are calling from. Think I kid?

Go to www.hurt911.org.

Just a word to the wise.

Now It's Up to You

**to find the right lawyer
for your case.**

Take Action

Be Persistent

and Good Luck!

FREE NEWSLETTERS FROM

Winston, Clark & Wigand, P.A.

Want to know how to best deal with insurance company denials? Want to find out specific steps you can take to find the best lawyer for your case? Want to read the “inside story” about frivolous lawsuits? Would you like some practical advice about buying insurance from someone who does not sell insurance?

These are some of the topics that are covered several times a year in a free newsletter sent to your home by Fort Lauderdale attorney Brad Winston.

Mr. Winston strongly believes that most legal disputes could be avoided if people had a better general knowledge about the legal system, insurance coverage, and the insurance claim process.

There is absolutely no cost or obligation, and from time to time we run contests to give away free stuff!

If you subscribe and later feel that we are wasting your time, there is an 800 number in every issue that you can call to “unsubscribe.”

Don't worry—this is not the boring, “canned” newsletter that most firms buy and slap their names onto. We write it, and we aim to encourage people to pay more attention to their legal affairs.

There is no need to destroy this book. Just photocopy this form, fill it out, and mail or fax it to us at 954-475-2279 or mail to Brad Winston, 8211 West Broward Blvd., #420, Plantation, FL 33324.

Please start my subscription to your free legal newsletter:

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THE TRUTH ABOUT **LAWYER** ADVERTISING

Reading this book can greatly increase your odds of finding the right lawyer for a personal injury or medical malpractice case. I will show you a system that will help you understand lawyer ads, find respected legal directories, and ask for referrals.

Learn why it's important for a lawyer to be "board certified," and what questions to ask an attorney during your interview. Contact me at www.WinstonLaw.com if you need help finding a lawyer after you read this book.

Learn more about the Winston Law Series. Our other books include: *Buying Car Insurance*; *Five Deadly Sins*; *Robbery Without a Gun*; *Medical Malpractice*; and *Making the Right Choice*.



Bradley Winston is a South Florida personal injury attorney who is Board Certified in Civil Trial. He has over two decades of legal experience handling a wide variety of personal injury matters. Throughout his career, Mr. Winston has fought hard to protect the rights of his clients and to ensure that they receive all the financial compensation they are entitled to under the law.

Mr. Winston is recognized by and active in many leading legal organizations, including: Super Lawyers®, 2006-2011; Million Dollar Advocates Forum; American Board of Trial Advocates; American Bar Association; and the American Association for Justice.

Martindale-Hubbell®, a leading U.S. legal publisher, recognizes Mr. Winston with a Preeminent 5.0 out of 5 Peer Review Rating. You may contact Bradley Winston at 954-475-9666.

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