

Profile: Marc Friedland

Getting the Best on a Budget

By Elizabeth Anne
"Betiayn" Tursi

Over the last 2 weeks, television has given the general public an opportunity to witness two milestone celebrity birthday parties. First came Oprah's 50th, which she televised on her daytime show. Then came *Entertainment Tonight* and *Good Morning America* with John Travolta's Surprise 50th birthday party bash in Mexico. Long before these parties took shape, one individual had the daunting challenge of creating the invitations that would monogram these events. I think it is fair to say that when Hollywood types want to make an impression, they will look high and low to seek out the most creative and innovative types to deliver whatever it is that they wish to convey. There seems to be a trend in Hollywood when it comes to selecting an individual to trademark and distinguish an event, and that trend is to select Marc Friedland, who has come to be known as the "stationer to the stars." Marc has been responsible for creating some of the most distinctive invitations and collateral materials for events that frankly only Hollywood can produce. From his stationery collection featured in Bergdorf Goodman to his book *Invitations — The Quintessential Guide for Creating*

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'The Makeover-ees'

Marketing the Law Firm Selects the Best of Law Firm Visual Identity Innovators

By Elizabeth Anne "Betiayn" Tursi

In my career I have had the privilege of being asked by law firm management to make over from top to bottom the image of the firm. In one instance, the makeover was defined in both visual and editorial terms. At another firm, the makeover consisted of a new identity from which was launched a completely updated and exciting presence.

Law firm makeovers can be powerful tools in a firm's quest to be a differentiator within the legal profession. A law firm makeover can also have the desired effect of reinforcing existing client relationships and garnering some new business as well. In today's environment, lawyers are spending a great deal of money on Web sites, brochures, logo creation and even holiday cards to make the right impression. Solo practitioners want to appear larger than they are, so very often you will see that they have highly-sophisticated marketing materials. They do this not only to obtain referrals from large firms, but also to attract a certain type of client. Small and medium-sized firms do the same thing. They will hire the best in the business to create an image that can compete with the megafirms. Budgets range in the thousands to achieve a look and a feel that is competitive.

Graphic design, by its very definition, imparts a look and feel that sets the tone for how individuals or firms can set themselves apart from their competition. Makeovers can be launched in a variety of ways — from a firm's anniversary to a sponsorship to a special event. Law firms, legal associations, consultants and others are always looking to impress clients and prospective clients, and imagery — whether it an invitation, handout materials or giveaways — is vital to achieving that goal. Law firms have been a bit slow to embrace what "Corporate America" has always been keenly aware of — image can be the differentiator in making the sale. It's true that most brochures and Web sites will not readily bring in new clients, but when a firm wants to move from staid and plain to vibrant and exciting, there is probably no better way to introduce the "new" firm than to do a complete makeover via visual communication. It can be as simple as the way the firm name is written, or as complex as the creation of a logo to use

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Marc Friedland

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Amazing Invitations for Every Occasion (Clarkson N. Potter, publisher) to his celebrity client list, Marc Friedland is a stand-out in the world of event planning and corporate communications. But Hollywood is not Marc's only beat. Through his corporate organization, Creative Intelligence Incorporated, Marc and his team develop everything from logos to business systems, including brochures and collateral materials to branding to press kits. The company's Customer Services Division provides a wide range of services, including addressing and hand calligraphy to custom packaging and gift-wrapping.

When I was doing my research for the law firm makeover article (beginning on page 1), I had the pleasure of speaking with Marc in relation to his work with Greene, Broillet, Panish & Wheeler LLP. Subsequently, he and I had a couple of discussions. In one of those conversations I asked Marc if I could see a couple of samples of his work ranging from the event planning to the corporate side. A couple of days later I received a box of the most unbelievable collection of materials — literally a feast for the eyes. In the box were samples of invitations — and yes, Oprah's and John Travolta's birthday invitations were in there, together with an entire series of pieces Marc designed for the opening-week events of the Disney Concert Hall in Los Angeles, and a wonderful series of invitations to corporate events in New York.

Also included were some very classy and distinctive law firm brochures in addition to the materials done for Greene, Broillet, Panish & Wheeler. I could only imagine the events that surrounded the fabulous invitations and the type of law firm that would have a Marc Friedland work with it. Besides the Greene Broillet pieces, one other notable law firm brochure stood out as cutting edge — Alschuler Grossman Stein & Kahan, a Los Angeles-based firm that has a national reputation in complex business litigation and business. Here was another law firm, like Greene Broillet, that was not an AmLaw 100 or 200 firm — the usual cadre of firms

that one might think would hire someone like Marc Friedland. Alschuler's brochure provided still another glimpse of how Marc and his team were able to translate the profession of law into something that was conservative yet striking, and relevant in today's competitive legal market. The Alschuler brochure's cover was a charcoal pinstripe. The content of the brochure was a written profile with few graphics and mostly text. It was clearly not meant to be glossy, and it portrayed Alschuler much like one would depict a Wall Street law firm — and that clearly was the message the firm sought to convey. Graphic design is extremely personal. When I spoke with Marc, he said that when doing corporate materials, it is very important to project a consistent point of view so that the appeal is to a larger segment of the population rather than to a controlled list of invitees. In going through the process of conveying a message that will be accepted by the partners or owners of a law practice and will be accepted by existing and perspective clients, you need to recognize the fact that the audience is purchasing professional services and not buying a product or coming to an event. The words make the difference and the graphics, while important, are proportionately important to the message. While the brochure needs to "look good," it is the content that will lure the audience. This is a departure from the world of event planning. Graphic designers become instantly aware of how lawyers think and how they believe their professionalism should be conveyed. What a graphic designer brings to the table is how to visually impart information that will have a universal appeal to the reader. When you want to deliver the best message — whether an event or a corporate identity — you need to hire a graphic designer that will customize the seller's — in this case law firm's — point of view.

As I perused the portfolio of public relations materials on Marc and Creative Intelligence, and looked at the firm's individual Hollywood star-filled client list, it became more evident to me that although the bedrock of Marc's work has been in

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The Write Stuff: Making Bylined Articles Work for You

By **Nena Groskind**

Law firms, like all businesses, need to market their services. That recognition came a bit later to the legal community than some others, but few attorneys today would argue that waiting for your virtues to be discovered is an effective way to compete for new clients and retain existing ones. Even clients who already know how good you are, because you have represented them effectively in the past, need periodic reminders of your skills. “Out of sight out of mind” doesn’t work all that well in a great market; it can be devastating in a bad one.

Buying advertising space is one way to promote your firm, but it is also expensive. Papering premier publications with your press releases is free, but also very difficult. Most of the publications in which you would most want to appear don’t use that many press releases — and they tend to bury the ones they do use. Besides, who is going to read and remember that your firm has hired, promoted, congratulated, or offered a partnership to someone? Except to other members of the firm or their immediate families, all of these announcements look alike; they will register barely, if at all, with the clients whose attention you are trying to attract.

A far more effective way to get your firm’s name “out there” is to produce bylined articles, written by members of your firm, discussing timely, relevant topics of interest to the companies or individuals whose business you have or would like to acquire. Like press releases, these articles are “free” in the sense that you do not have to pay the publications that publish them. And there is no better way to demonstrate your firm’s expertise

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in a practice area than to have someone write knowledgably about it.

FREE ADVERTISING

Unlike press releases, which most publications view as a necessary evil, guest articles are often welcomed. The real estate trade publication I edited for many years produced mammoth “special supplements” virtually every month, for which we regularly solicited (and sometimes begged for) articles written by industry experts. Surprisingly, few of the companies we approached recognized the value of these opportunities. Those that did reaped multiple benefits, beginning with the free advertising produced by the tag line at the end of every article: “This article was written by John Smith, a partner in the law firm of Smith, Jones, and Smith. SJS, with offices in Plainville, specializes in real estate and every other area in which your company might have a need for legal advice.” You would have to pay a lot for an ad that conveyed the same message. And this sort of indirect advertising is particularly effective, because instead of stating, “We’re terrific,” it allows prospective clients who read your articles to reach that conclusion on their own.

Producing guest articles on request, or offering to write them, pays off handsomely in other ways as well, including the likelihood that reporters and editors who see the articles will recognize your expertise and use attorneys in your firm as sources for the news and feature articles they write.

You have probably noticed that reporters seem have a few favored sources they quote all the time. These industry experts have positioned themselves at the front of media rolodexes by demonstrating that they are credible, reliable and knowledgeable in their fields. Writing bylined articles is one very effective way of positioning a firm and its attorneys in that way.

Bylined articles also have multiple uses. The article an attorney writes for the local business weekly or community newspaper might also appear:

- On the firm’s Web site (which always needs fresh content);
- In the firm’s print or electronic newsletter; and
- In “thought you might be interested in this” letters or e-mails, providing

an opportunity (other than a bill) to contact existing clients and perhaps to illustrate expertise in areas other than those with which the firm’s clients are familiar.

INSIDE OR OUT

Firms that decide to produce bylined articles have two options:

- Write them in-house; or
- Hire someone else to write them for you.

The obvious advantage of the in-house option is that it doesn’t entail any out-of-pocket costs; the firm’s attorneys do the writing. The disadvantage is the firm’s attorneys do the writing, and they may not view producing these articles as a top priority — or as a priority at all. While the marketing benefits are significant, they are less tangible and less immediate than the benefits of billable time spent working for existing clients. Also, the demands and unpredictability of servicing clients can make it difficult for attorneys to produce articles quickly or on a consistent schedule. This is particularly true at smaller firms where attorneys are almost always over-extended and view any non client-related activity as a drain on billable time.

Finding attorneys who are willing to write and have the time to do so is only part of the challenge; you also need to find attorneys who can write well. Most attorneys think they write well and some of them actually do. But an attorney who can write a brilliant legal brief won’t necessarily be able to write an article that an audience of non-lawyers (or even lawyers for that matter) will enjoy reading and understand.

GHOST WRITERS IN THE SKY

For these reasons, some firms decide it makes more sense to hire a professional wordsmith to “ghost write” articles for them — that is, to produce articles that will appear under the “byline” of a member of the firm.

Typically, the designated author will brief the writer on the topic, provide or direct the writer to support materials (briefs, court decisions, regulations, etc.), and then review the finished article — a process that requires far less of the attorney’s time than actually writing the article would entail. Using freelance writers, a firm can produce as many articles as it

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'The Makeover-ees'

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with an entire new collateral material system (letterhead, ad campaigns, practice area and bio stationary, etc.). It is also true that people are generally adverse to change. Law firms don't like taking risks, especially when the "old way" has worked so well for so many years. Law firms are traditionalists — they like the idea of having beige letterhead with black print. Up until some 10 years ago, the thought of using color on a letterhead was anathema to their very sense of professionalism. However, there is a lot of power in a visual communication that represents the heart and soul of a firm, and once it is out there, both internally and externally, people can begin to appreciate it and understand its value. A makeover can create a buzz about a firm. It should not occur in a vacuum. Together with the right press coverage, a law firm makeover can be news and it can generate excitement.

This article focuses on how three law firms — one in the Northeast, one in the Southeast and one on the West Coast — used visual communications in the best way to reinforce and, in some instances, recreate their firms. First of all let me take a moment to talk about the process of selecting these three firms. A couple of months ago I put out a call to marketing professionals in law firms to contribute their makeover stories. I was pleasantly surprised to receive many contributions. And so I had the task of selecting the best of the best. Herewith are the three firms that I thought best exemplified the use of visual identity to brand and, in some cases, rebrand the law firm. *Marketing the Law Firm* is privileged to recognize the following three firms

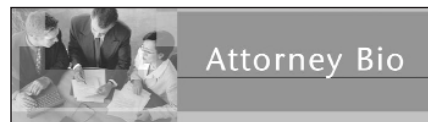
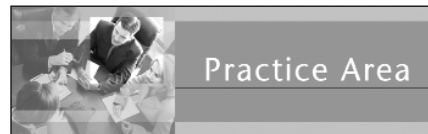
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as innovators and "best practice leaders" in the use of visual communications to make over their identity.

CARLTON FIELDS

Most innovative makeover to reposition a law firm

Carlton Fields is a firm whose primary offices are in Florida. The firm's visual campaign that I remember was one that communicated Carlton Fields as a Florida firm — complete with ads showing palm trees. In early 2003, the firm decided that, in keeping with its more national client base, it was time to reposition itself for the purpose of



Carlton Fields visual communication materials

conveying a visual presence that would have a more national feel and reach. So a small committee of in-house individuals and an outside design firm, Walker Brand Communications, came together to discuss and decide exactly what the makeover would look like, both in terms of a visual identity for print materials that could also translate well on a soon-to-be-made-over Web site. The discussion included capturing a more contemporary and sophisticated feeling that would reflect the firm's more national client base. The results are featured here in a few of the firm's visual communication pieces, including practice area and bio stationery and a firm note card. One of the most important aspects of a makeover is that it be consistent. The Carlton Fields team understood this and, with the unparalleled talents of Hubbard One, reflected their new look on to the firm's Web site. The firm's marketing department, including Director of Client Services Elizabeth Zabak; Jennifer Malin, the firm's Client Services Manager; and Public Relations Coordinator Kristen Shepley, introduced the visual identity with an "out with the old; in with the new" party. Materials that were previously used were literally "trashed" — another sure sign of consistency and coordination. Carlton Fields is

recognized by *Marketing the Law Firm* as a firm that has made a successful transition in repositioning itself from a local/statewide firm to a national firm through the use of a new visual identity.

GREENE, BROILLET,

PANISH & WHEELER

Most innovative makeover using a logo

Greene, Broillet, Panish & Wheeler LLP, one of the best plaintiffs' trial law firms in California, stands out as the best use of graphic design in a firm makeover to create a new, invigorated yet classic presence. The attorneys at this firm are consistently ranked among the top performing and most influential lawyers in Los Angeles and California. However the firm's visual identity did not reflect that presence. Working with a superb graphics design firm, Greene, Broillet introduced its first logo to better reflect its image, energy and record of success. We are featuring a before and after look at the Greene, Broillet logo, and the use of the new logo on a firm announcement. The very striking

Greene, Broillet logo — before ...



... and after.



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brackets give Greene, Broillet a visual identity that is immediately recognizable. Kathy Pinckert, Director of Marketing & Media Relations, was given the latitude to hire the graphics designer of her choosing. She selected Creative Intelligence and, specifically, the principal of that organization Marc Friedland (see the profile of Marc on page 1) and then teamed with Executive Director William Krovetz to develop the brand and push the agenda forward on this project. Greene, Broillet, Panish & Wheeler LLP is recognized by *Marketing the Law Firm* as a firm that has created a visual communication that has enhanced its already prominent position in the legal community by boldly defining its identity in a powerful representation that will clearly be emblazoned in the minds of clients and prospective clients.

COOPER LEVENSON Most innovative makeover involving a name change branding and launch

The prominent New Jersey firm of Cooper Levenson is our final "best" in the arena of law firm makeovers. In March of last year, Cooper Perskie April Niedelman Wagenheim & Levenson announced the change of its name to Cooper Levenson April Niedelman & Wagenheim. This name change gave the firm an opportunity to create a new look and new materials with a twist. No one but the seven Executive Committee members

and the Director of Marketing, Jamie Mulholland, were privy to the name change. To announce the new name, the firm planned an unveiling in February of last year. Mulholland was given 6 weeks to plan the celebration, have the new logo designed and convert the firm's Web site and all printed materials, etc. She spent most of the 6 weeks offsite to protect the secrecy of the project. One week before the unveiling, the partners were quietly informed and all employees were invited to a "meeting and celebration" at a local casino (the firm has an office in Atlantic City) where all of the equity partners spoke about the growth of the firm over the years and

how "when you have good news, you share it with family." While still not revealing the news, the firm showed a video with a stream of clients saying, "this is great news, and I'm so happy to be working with the firm." Finally, came the unveiling of the name and logo. Each person attending the party was given a shirt with the new embroidered logo. Over the weekend, all of the letterhead and printed materials were switched and on Monday morning, Cooper Levenson became a new firm. Each employee was given a printed support manual and message points for any questions there might be. During "unveiling week" each morning, a gift was left on every employee's desk. There were pens, coffee mugs, mousepads, post-it pads — all with the new logo. We feature here two examples of how Cooper Levenson branded its new name. The first is an ad that ran after the name change. The other shows the firm name used in a newsletter masthead. *Marketing the Law Firm* recognizes Cooper Levenson as a firm that created not only a new logo, but a new feel to the entire firm.

THE PEOPLE BEHIND THE MAKEOVERS

I'd like to take a moment to thank everyone at these three law firms who participated in discussions with me for the development of this article. The conversations were upbeat and lively. Clearly, those involved in the process of creating, managing, facilitating and delivering these visual identity and branding initiatives are to be commended. We all know how difficult it is to move law firms forward. Sometimes the problems seem insurmountable but, in the final analysis, as is evidenced by these three firms, the time and energy expended is well worth it. In talking to people at these three firms, I learned that these visual identity makeovers have been very well received both internally and externally. The ringing endorsements by partners, clients and prospective clients are a clear testament and affirmation of the wonderful work that these marketing and design professionals engage in every day. Congratulations and continued success!

We're more than just fun and games.

ATLANTIC CITY
CHERRY HILL
CAPE MAY COURT HOUSE
PRINCETON
NORTHFIELD

Chances are, you've heard about our recent name change and are already familiar with our worldwide prominence in the gaming industry and casino law. What you may not know is that we are also well known among developers, insurance companies, condominium associations, real estate brokers and banks, offering a full range of legal services including defense litigation, employment, commercial litigation, tax/business and administrative/transactional services. Additionally, we provide personal representation for individuals locally and across the state. So, no matter what you've heard about Cooper Levenson, "you ain't seen nothin' yet."

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CASE SUMMARIES

Court Refuses to Extend Ambit of PIP Coverage

A recent Appellate Division case, *DiGiacca v. General*, has narrowed the scope of the PIP benefits available to a driver and passenger who were involved in a rear-end collision. Plaintiff sued Niagara warehouse in a vehicle being operated by Catherine, his brother-in-law.

As Niagara and Niagara were attempting to pay the balance of a claim, an amount owed to the plaintiff, the court was asked to extend the scope of the PIP benefits to include the plaintiff's brother-in-law, who was not a named insured under the policy. The court refused to do so, holding that the PIP benefits were limited to the named insureds and their family members.

New Jersey's insurance law has long provided for the concept of personal injury protection in the event of a bodily injury against the insured or family members. In the 1985 New Jersey Supreme Court case of *DiGiacca v. General*, the court held that the PIP benefits were available to a driver and passenger who were involved in a rear-end collision. Plaintiff sued Niagara warehouse in a vehicle being operated by Catherine, his brother-in-law.

As Niagara and Niagara were attempting to pay the balance of a claim, an amount owed to the plaintiff, the court was asked to extend the scope of the PIP benefits to include the plaintiff's brother-in-law, who was not a named insured under the policy. The court refused to do so, holding that the PIP benefits were limited to the named insureds and their family members.

Plaintiff's suit was initially dismissed as not being timely filed pursuant to N.J.S.A. 17:27A.1(d). The court was subsequently reversed by the Appellate Division, and the decision was then affirmed by the New Jersey Supreme Court.

Some time ago, the court had decided on August 10, 1996, and that certain further benefits had been paid to the plaintiff and his wife as a result of any further medical treatment.

On September 1, 1996, the Appellate Division affirmed the Appellate Division's decision, holding that the PIP benefits were available to the plaintiff's brother-in-law as a result of the PIP benefits being paid to the plaintiff's brother-in-law.

Appellate Division Finds Wrongful Death and Two Survivorship Claims to be Separate Actions Subject to Separate Coverage Limits

In *Wolman v. Estate of the Deceased*, the Appellate Division held that a wrongful death claim and two survivorship claims are separate actions for purposes of coverage under a life insurance policy. The court held that the wrongful death claim and the two survivorship claims were separate actions for purposes of coverage under a life insurance policy.

The Appellate Division found that the wrongful death claim and the two survivorship claims were separate actions for purposes of coverage under a life insurance policy.

Personal Liability/Immunity

During a truck stop in a 5-mile radius of the truck stop and entered a 10-mile old pit. The court held that the plaintiff's claim for negligence was not barred by the statute of limitations, as well as his personal injury claim, as the claim for negligence was not barred by the statute of limitations.

PIP Benefits/Statute of Limitations

N.J.S.A. 17:27A.1(d) requires that an action for personal injury protection be brought within 2 years of the last date, or when an expense is incurred or when a benefit is payable, whichever is earlier. However, if benefits have been paid before that date, the 2-year period for PIP benefits may be extended until 2 years after the last payment of benefits.

Plaintiff's coverage was limited to a 2-year period, and the court held that the statute of limitations was not barred by the statute of limitations.



ATTORNEYS AT LAW

DEFENSE DIGEST

Wolman Extended: The Case Of The Wayward Grape



Wolman v. Estate of the Deceased

In *Wolman v. Estate of the Deceased*, the Appellate Division held that a wrongful death claim and two survivorship claims are separate actions for purposes of coverage under a life insurance policy.

had actual or constructive knowledge of the change in ownership. The court held that the plaintiff could not be held liable for the death of the decedent, as the court found that the plaintiff was not negligent in failing to discover the change in ownership. The court held that the plaintiff's claim for negligence was not barred by the statute of limitations, as well as his personal injury claim, as the claim for negligence was not barred by the statute of limitations.

Appellate Division Finds Wrongful Death and Two Survivorship Claims to be Separate Actions Subject to Separate Coverage Limits



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Getting Your Firm's Name Noticed in Electronic and Print Media

By **Liz Lindley** and **Jay M. Jaffe**

The moment has come: You've finally landed an interview spot on television, and you're the expert analyzing a big verdict. Colleagues, friends and family are watching. You sense that this media exposure may bring new clients and prospects your way. Your name shows up clearly under your headshot, but, wait ... your law firm's name is not included! How will those masses in need of your services ever find you? Disappointed and frustrated, you wonder why the firm's name was omitted. It had to be a mistake, right?

NAMETAGS ANYONE?

Not necessarily. First and foremost, television producers, just like print editors, make the final call on how to identify a spokesperson. The sheer length of a law firm's name makes it an easy target for the cutting-room floor or the editing wastebasket. Is there any way you can persuade a reporter to include your firm name? Short of looking like a pro golfer and blatantly wearing your firm's name on your tie or jacket, or even painting it on your forehead, what options are available to you? There are some things that one can do in this competitive legal environment to get your firm's name mentioned, but you are going to have to work for every mention you can get.

If you've been asked to appear on a televised show that will be taped at the studio, you should ask your contact about the news department's policy regarding identification. If you are told that your name will appear but your firm's name may not, then you should consider subtle ways to mention the firm.

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If you are able, interject the firm name in some casual way, perhaps by saying, "When this issue comes up at ABC Firm, we have concluded that ..." or, "We realize how important this question is to our clients, so when they come to our firm, ABC Firm, we review the pros and cons with them." Unless your segment is broadcast live, be prepared for the possibility that an editor will cut those references from your comments. But, the closer the name of the firm is to the meat of the comment, the more difficult it will be to cut. If you are uncomfortable with this approach, you could try to negotiate a mention of the firm's name prior to the interview. You will need a compelling reason to request a reporter to keep your firm name in the interview. Sometimes even when you are unable to mention the firm's name, and the members of the production team fail to include it under your headshot, the reporter may still name the firm once your sound bite has finished. Remember the more they need your comments the more leverage you have to get your name mentioned.

If a television crew would prefer to come to your office to conduct the interview, then it is your obligation to set up some type of prop that features the name of the firm, or even a part of the name of the firm. If you are interviewed at your office, think about standing for the interview in front of your firm's signage, or maybe consider placing firm brochures on the desk, or select books that show your firm's name on the spine and place those on the bookshelves behind you. It makes sense to spend a few moments rearranging your office to highlight the firm's name.

Print interviews present the same identification problems. Again, your first step should be to ask the reporter politely, prior to the interview, if the firm name can be included. When giving the reporter the correct spelling of your name along with your title — partner, managing partner, etc. — you can also say something like: "The name of the firm is spelled Bacon, Lettuce & Tomato, and because of our prominence in the industry it may be worthwhile or give your story more credibility to include it when you identify me."

Or, "You might try identifying me as Bacon, Lettuce and Tomato's Managing Partner Susan Rogers." In any case, it can't hurt to ask.

SIZE CAN MATTER

As basic as this may sound, the attorney needs to explicitly spell out the full name of the firm (or however he or she wants it to appear in print), under the premise that he or she is just making sure there are no misspellings when it goes to print. That way, the reporter not only has the correct firm name, but also realizes the attorney's expectations that it will appear along with his/her name.

A marketing director, or other professional who may be helping the attorney prepare for the interview, should advise the attorney to offer the full firm name as well as a shorter version for an alternative (maybe with only the first two names of the firm name). This gives the reporter a choice in case the firm name is just too long. In fact, firms with longer names might want to consider having a policy where it is acceptable — even if not entirely desirable — for news outlets to run a shorter version of the firm's name.

If a reporter requests quotes or statements via e-mail, make sure that the attorney's full name and firm are clearly written out, and perhaps the journalist will lift the quote as is, with the proper affiliation.

If, at the end of the day, the editor has cut the firm's name from your television, radio or print interview, don't despair. It is still possible for you to achieve visibility for yourself and the firm by alerting your clients, prospects, colleagues and acquaintances that you have been quoted in a media outlet. Send around an e-mail with the information about the interview — and be sure to include your comments on the issue that was raised.



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CAN-SPAM Summary for Legal Marketing

By Rob Kahn

The CAN-SPAM Act (Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003) was signed by President Bush on Dec. 16, 2003 and went into effect on Jan. 1, 2004. While unsolicited commercial e-mail is still legal under the new federal law, marketers must follow five rules to keep their outbound marketing messages above the board. What follows is a brief summary of the transmission rules:

1. PROHIBITION OF FALSE OR MISLEADING TRANSMISSION INFORMATION

This is directed at “spoofers,” but applies to all senders. Don’t try to hide the individual or organization sending the transmission. It is acceptable to send e-mail from a non-personal corporate address (*ie*, laborlawupdate@lawfirm.com). If you have doubts about your header/transmission information, contact your IT department or Internet Service Provider (ISP).

2. PROHIBITION OF DECEPTIVE SUBJECT HEADINGS

Although this is ostensibly directed at egregious behavior, creative marketers should be wary, because the language is very broad. The subject line AND the content should not mislead the recipient about its purpose or objective. A common example are those pornography e-mails with subject lines like “I’ve been trying to call you!” But this provision goes well beyond those obvious violations. For instance, a link in your e-mail to the “purchase publications” section of your Web site should not be misleading about where it’s taking the recipient.

3. INCLUSION OF RETURN ADDRESS OR COMPARABLE MECHANISM IN COMMERCIAL ELECTRONIC MAIL

When the recipient hits “reply” to your e-mail, the return address

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should go somewhere such that “remove me”-type e-mails are received and acted upon. Such return addresses must remain valid for 30 days from the date of transmission of the initial e-mail. Note that the law provides an exception for temporary outages, such as your firm’s e-mail server crashing for a brief period of time. A common area likely to trip up businesses is when an employee

If somebody replies (or follows your other opt-out procedure) and says, “no more!”, you’ve got 10 days to get them off your list. If you send them another e-mail 11 days or more after they sent you an unsubscribe request, break out the checkbook — the fine is up to \$250 per e-mail address.

responsible for broadcast e-mail leaves the company. If his or her address was being used as the “reply-to” address, that address must remain valid (or be forwarded to a valid address) for 30 days from the most recent transmission.

4. PROHIBITION OF TRANSMISSION OF COMMERCIAL ELECTRONIC MAIL AFTER OBJECTION

This is the big one! If somebody replies (or follows your other opt-out procedure) and says, “no more!”, you’ve got 10 days to get them off your list. If you send them another e-mail 11 days or more after they sent you an unsubscribe request, break out the checkbook — the fine is up to \$250 per e-mail address. Be wary of vacation/holiday schedules of employees responsible for this task. Ten calendar days go quickly.

5. INCLUSION OF IDENTIFIER, OPT-OUT, AND PHYSICAL ADDRESS IN COMMERCIAL ELECTRONIC MAIL

This is the second big one! Your e-mail must contain:

- (A)(i) clear and conspicuous identification that the message is an advertisement or solicitation
(*Note: This does NOT have to be in the subject line; though some state ethics rule require this of attorney solicitations*);
- (A)(ii) clear and conspicuous notice of the opportunity to decline to receive further commercial electronic mail messages from the sender; and
- (A)(iii) a valid physical postal address of the sender.

(*Note: Some commentators interpret this paragraph to mean you cannot use a P.O. Box address, but there is nothing in the law itself that prohibits the use of a post box or mail stop address to fulfill this requirement.*)

Subparagraph (A)(i) does not apply to the transmission of a commercial electronic mail message if the recipient has given prior affirmative consent to receipt of the message.

Like most new laws, CAN-SPAM has many vague attributes.

For instance, if a recipient sends a “remove” request in response to a transmission from your real estate law distribution list, does it mean you have to take the recipient out of ALL your firm’s distribution lists, or just the real estate law list? And while pure legal updates to existing clients most likely fall outside the reach of CAN-SPAM, what if it includes the occasional announcement for a legal seminar that has an admission price? What if it includes information on an area of law for which the firm is not already representing the client?

Until these uncertainties are clarified by further legislation or judicial opinion, it is probably wise for each firm to devise its own CAN-SPAM policy and then stick to it. Such policies might include a definition of the external communications that fall within the law, specific instructions on how to draft e-mails that comply with CAN-SPAM provisions and a clear procedure for tracking and implementing opt-ins and opt-outs.



Marc Friedland

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the mainstream of Hollywood, there are many professional service firms that understand the value of a brochure as their calling card that can define their firm and its people. In his biography there is a definition of Marc's philosophy as "anything inviting will heighten attention and attendance creating the much sought after buzz." As Marc points out, "this applies to virtually anything requiring the production of cutting-edge collateral materials from advertising

and public relations to special events and luxury consumer items."

Having worked in another life as a corporate event planner and having planned events at law firms and, yes, having had the responsibility of developing new corporate identities for law firms, I can testify to the fact that the design team makes all the difference in the world. To go outside of the traditional corporate or professional service-oriented graphic designer may not use up a law firm's entire marketing budget. What you get in return can be unique and different than what law firm's are used to, that other will surely

follow, as we can see from the non-Hollywood firms with which Marc has worked. And besides, maybe there is some tangible value to be able to say your firm's marketing and client communication pieces come from the same pen that designed the invites to Oprah's well-publicized birthday event.

[Marc Friedland is the Founder and Creative Director of Creative Intelligence, Inc., in New York and Los Angeles. He can be reached at info@creative-intelligence.com and 323-936-9009.]



Write Stuff

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wants — or is willing to pay for — without significantly cutting into the firm's billable time, and without pressuring attorneys who either don't have the time to write or who prefer to spend their time doing other things.

Just as all attorneys are not equally skilled at writing for a non-legal audience, all professional writers are not equally adept at handling legal subjects. If the firm's attorneys are going to have to spend hours correcting and rewriting the ghosted articles, they may as well write them in the first place. You want to make sure any writers you hire can talk to attorneys, understand what they say, and produce clear and engaging articles on subjects that are complicated and often somewhat dry.

You will have to pay for these articles, of course. Like attorneys, professional writers expect to bill for their time. Billing practices and amounts will vary, depending on the skill and experience level of the writers and on the length, difficulty and frequency of the articles you commission. On average, you should expect to pay as

much as \$100 per hour or more for the best writers; you can pay much less, of course, but as in most areas, you get what you pay for.

A contractual arrangement in which you commit to a specified number of articles over a designated period of time will almost always be less expensive than a per-assignment arrangement with one or more writers. A writer who works with your firm over time will get to know your attorneys (and vice versa), develop a smooth working relationship with them, and acquire a good working knowledge of the issues you target. The result should be high-quality articles requiring relatively little effort or time from your attorneys. That, in any event, should be the goal, and one measure of whether this arrangement is working effectively for you.

To get the most from your bylined articles, whether you produce them in-house or otherwise:

- Select topics that spotlight the practice areas and skills you want to promote.
- Choose your authors — both in-house attorneys and freelance contractors — carefully. Producing poorly written articles is worse than not producing any articles at all.

- Get maximum mileage from every article. Put them on the firm's Web site, in its newsletter, and in the mail. If you go to the trouble of writing an article or paying someone to write it, make it work overtime.
- Establish a regular article production schedule and stick with it. Like any marketing effort, the benefits of bylined articles are cumulative. Producing one article, or a few of them sporadically, won't do much. Posting and publishing articles regularly, and in multiple locations, will get your firm's name in front of clients and prospective clients and keep it there.

Producing bylined articles will require an investment of time or money or perhaps both, but it is an investment that will pay off quickly in marketing benefits that more than justify the commitment and the cost.

[Editor's Note: Law Journal Newsletters regularly accepts bylined articles for all of its titles. For a complete list of titles, visit www.ljnonline.com. For more information, or to send articles for consideration, write to steves@palawnet.com.]



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