



## SOUNDOFF

### YOU'VE BEEN WARNED

After publishing Tom Galbraith's superb remembrance of John Flynn, I am sure you received many first-person anecdotes. Here's mine.

In the late '60s, the Pima County Bar met monthly in the Pioneer Hotel Ballroom in Tucson. The meeting was always well attended. John

Flynn spoke at one meeting about his *Miranda* case, at that time the hottest Supreme Court topic since *Gideon v. Wainwright* as to lawyer assistance for criminal cases. He described his dialogues with the brilliant appellate lawyer John P. Frank as to which of the Bill of Rights amendments to emphasize in the briefs. He told of their delight when the Court chose the Sixth Amendment "right to counsel," which led to the famous "Warning." Then he spoke of Ernesto Miranda the man—of his failings, his ultimate conviction and his humanity. One could hear the proverbial pin drop as the assembled lawyers hung on his every eloquent word.

Afterwards, I happened to be speaking to a deputy county attorney who was infamous for his Prussian attitude about prosecution. I mentioned that Flynn's description of his client had been very touching and had moved the audience. His response was, "Well, don't forget that he was guilty all the time."

So much for sensitivity.

—Paul G. Rees, Tucson

### TV ADS JUST PART OF THE PROBLEM

I am writing in response to "The Last Word" written by Grant Woods in the September issue ("The Sinking of the Profession"). Mr. Woods argues the primary reason the public's perception of lawyers has fallen is attorney television advertising. Many attorneys share his view.

In truth, this is only an excuse, a comfortable explanation to make us all feel better. Most lawyers do not advertise on television, so it is easy to blame this small minority for the average person's ever-decreasing opinion of lawyers. The real problem is much larger than 30-second commercials spots.

Forget your own disapproval of these ads—the question is not our view of these commercials. The question is whether the public's opinion is due to these ads. Sure, some find certain ads revolting, but that does not make it the source of their growing distrust of our profession. It is much more likely these people had a lawyer who rarely returned

their calls, or were frustrated by a process that they found extremely complex yet was never explained to them. Some simply believe the media hype of runaway juries and criminals going free—a distorted perception we as a profession do little to correct.

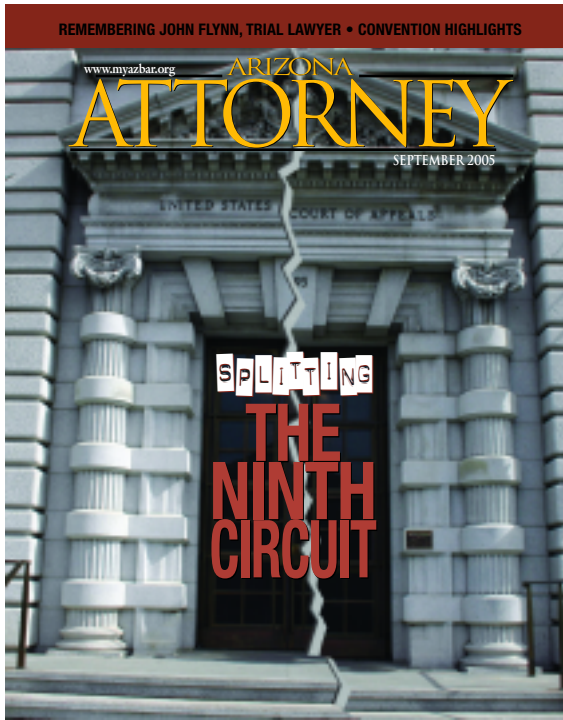
As to the shift in public opinion, we are not alone. The public's perception of the media, clergy, teachers and others has also fallen in recent years. Obviously, there are other factors at play.

Also, if TV ads were the primary source of the problem, we would expect the lowered opinions to be held by those who actually view the ads, but we know that is not the case. Mr. Woods points out that the lawyers he refers to as the "bottom feeders who demean us all" advertise largely during daytime television shows. Legal television ads are often geared toward that portion of society watching Jerry Springer and Judge Judy. These ads are not running during Larry King Live, C-SPAN telecasts, or on PBS. Why, then, has the opinion of our profession taken such a hard hit across the board?

I am not defending the content of some of these ads. Like Mr. Woods, I have personally been disgusted and shocked at some of the lawyer ads on television. However, my personal opinion of individual commercials is not important. If we really want to change the perception the public has, we need to do a better job of treating our clients and serving the public. We need to address the myth of a jury system out of control and the myth of a criminal justice system that lets all of the accused go free.

A small percentage of lawyers advertise on TV. A much smaller percentage air commercials that are undeniably over-the-top. To scapegoat these few as the source of the public's dissatisfaction with our profession is the easy way out. To find the real cause of public dissatisfaction, we need to spend more time looking in the mirror, and less time looking at the TV.

—Mark P. Breyer, Esq.  
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