American Tort Reform Association

1101 Connecticut Ave, NW ■ Suite 400 ■ Washington, DC 20036
(202) 682-1163 ■ Fax: (202) 682-1022 ■ www.atra.org

Local Legal Services Advertising

2018 – Quarter 2

Trial lawyers and aggregators are increasingly spending large sums of money on television, digital, and print advertising to recruit new clients for class action lawsuits. In the second quarter of 2018 alone, it is estimated that $186 million were spent on nearly 3 million ads for legal services or soliciting legal claims across the United States. Much of this advertising is conducted by aggregators – businesses that recruit potential plaintiffs and then sell their information to law firms.

Consumers see doomsday ads about the lethal effects of medications or even general medical injury, and consequently stop taking their medications as prescribed. This often is done without consulting a doctor, causing health problems for the patients and increased litigation risk for the product manufacturers.

These over-the-top advertisements from personal injury attorneys with catchy jingles and toll-free numbers pose a serious danger. These ads undermine the simple notion that physicians and health care providers, not personal injury lawyers or the "aggregators" who run the ads for the lawyers, should dispense medical advice.

The reason trial lawyers pump significant money into these ad buys is because, armed with more clients, they can boost settlements and payouts when they go after large corporations. This leads to larger contingency fees for themselves.

The ads do more than help recruit clients, however. They also have the ability to influence the thinking of citizens who might wind up serving on a jury in lawsuits. A survey conducted by Trial Partners, Inc. found that 90 percent of jurors would be somewhat or very concerned if they saw an advertisement claiming that a company's product injured people. Additionally, 72 percent of jurors agreed somewhat or strongly that if there are lawsuits against a company claiming its products have injured people then there is probably truth to the claim – showing just how big of an impact these ads can have.

This study by the American Tort Reform Association reveals that trial lawyer advertising is not an issue isolated in one community or in one state. Rather, trial lawyers across the United States identify jurisdictions friendly to their work and relentlessly pursue new clients in search of the next large payout from a trial or settlement. In the second quarter of 2018, nearly 15 percent of all local legal services advertising occurred in seven media markets – Los Angeles and San Francisco, California; Tampa-St. Petersburg and Miami-Ft. Lauderdale, Florida; St. Louis and Kansas City, Missouri; and New York, New York – notorious for such cases. In that time period alone, Los Angeles and New York saw $7.6 million and $6.4 million spent on local legal services advertisements, respectively. Without a national solution, trial lawyers will continue to prey on communities across the nation.

While there are not enough band-aids to cover the injuries trial lawyer advertising have caused, we can take steps to inform the public. Through education, we can shine a spotlight on the aggregators who mislead consumers and sell their information to law firms. By arming everyday Americans with this knowledge, we can help push back trial lawyers and engage with our local leaders for potential solutions and policy changes.

Local legal services television advertising in top media markets in California, Florida, Missouri, and New York
2nd Quarter of 2018

August 2018

In the second quarter of 2018, from April through June, nearly 3 million advertisements for legal services and/or soliciting legal claims aired on local broadcast networks in the 210 local media markets across the United States.[1] It is estimated that $186 million was spent to purchase these ads.[2] Seven percent of the locally broadcast legal services ads during this three month period aired in seven media markets in four states across the United States. These markets -- Los Angeles and San Francisco, California; Tampa-St. Petersburg and Miami-Ft. Lauderdale, Florida; St. Louis and Kansas City, Missouri; and New York, NY -- also accounted for nearly 15% of all of the local legal services television advertising spending during this time period. An analysis and discussion of the legal services advertising volumes in these markets follows.

CALIFORNIA

Los Angeles and San Francisco-Oakland-San Jose are the two largest media markets in the most populous state in the nation according to Nielsen, a leading media measurement and data analytics company.[3] Legal services advertisers invested heavily in both media markets in the second quarter.

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[1] The total estimated number of local legal services TV ads broadcast during this time period was 2,945,222.

This total and other TV advertising data cited in this report does not include legal services TV advertisements broadcast nationally on national cable and broadcast networks or during nationally syndicated programming nor does it include local cable television broadcasts.

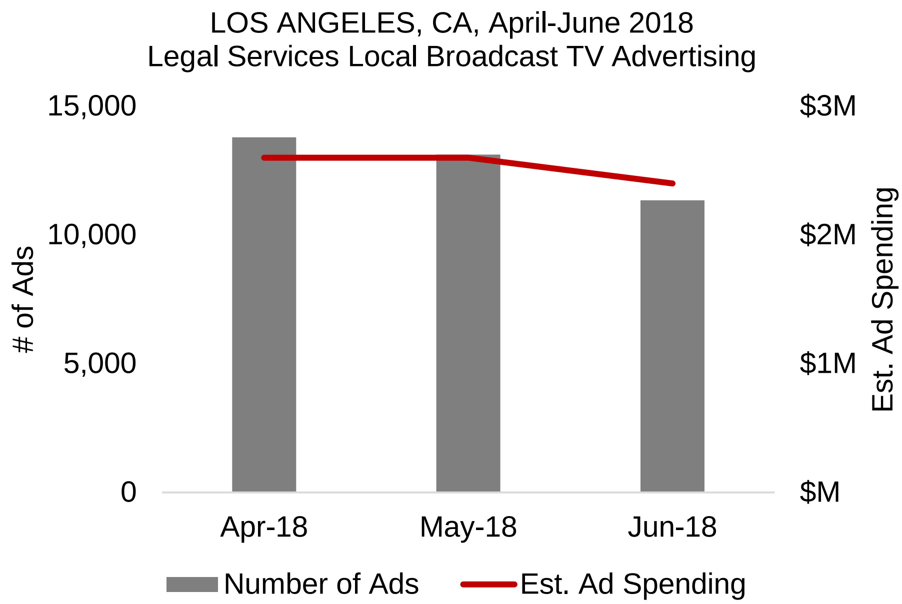
Data and analysis on television advertisements in this report are provided by X Ante using Kantar CMAG data.

[2] An estimated $186,320,201 was spent on legal services TV ads during this period. Ad spending figures are estimates based on publicly-available ad rate information. Data are estimates and may vary over time due to revisions to account for duplicates or errors and the availability of updated ad rate information.

[3] Nielsen's ranking of local television markets and estimates of their size for the 2017-2018 television season can be found at: http://www.nielsen.com/content/dam/corporate/us/en/public%20factsheets/tv/2017-18%20TV%20DMA%20Ranks.pdf

Los Angeles

Los Angeles is the second largest media market in the United States with over 7 million "TV Homes" or 6.3% of all TV Homes nationwide.[4] In the second quarter of 2018, an estimated $7.6 million was spent to air 38,253 legal services TV ads on local broadcast networks there. On average then, 420 legal services aired locally every day or 18 legal services ads aired every hour from April through June. This was seven times as many TV ads as the number of local ads for pizza delivery and restaurants in Los Angeles during this time.



Whereas an estimated $2.6 million was spent to air between 13,000 and 14,000 local legal services TV ads in Los Angeles in April and May, spending on these ads declined slightly to $2.4 million in June while the number of ads declined to just over 11,000.[5]

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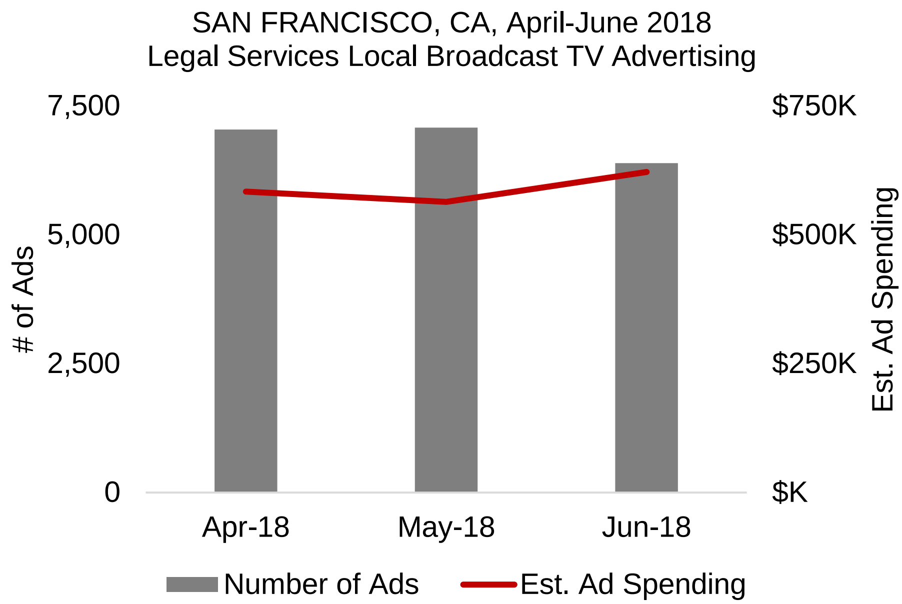
[4] A "TV home" is defined by Nielsen as a household that has "at least one operable TV/monitor with the ability to deliver video via traditional means of antennae, cable set-top-box or satellite receiver and/or with a broadband connection." *See* "Nielsen estimates 118.4 million TV homes in the U.S. for the 2016-17 season," http://www.nielsen.com/us/en/insights/news/2016/nielsen-estimates-118-4-million-tv-homes-in-the-us--for-the-2016-17-season.html.

[5] Advertising spending rates are estimates and subject to change -- especially data for more recent months such as June. Actual spending rates are the products of negotiations between the advertiser and the television station and are not publicly available. The estimated spending rates are estimated according to quarterly polling by Kantar Media of television stations and advertising industry sources to determine average 30-second advertising daypart-level rates and program rates for sports and special programming for the upcoming quarter. To account for the time it takes for any given rate to populate within the system, CMAG uses an average cost function based on rates from historical program averages airing in the same market on the same station during the same daypart. These temporary estimates are updated with actual sourced rates when they become available.

San Francisco-Oakland-San Jose

In northern California, San Francisco-Oakland-San Jose ("San Francisco") is the second-largest media market in the state and the eighth largest in the country with 2.5 million TV homes. An estimated $1.8 million was spent to purchase nearly 21,000 local legal services TV advertisements there in the second quarter. Four times as much was spent on these ads there as on local ads for furniture stores in San Francisco during this time.



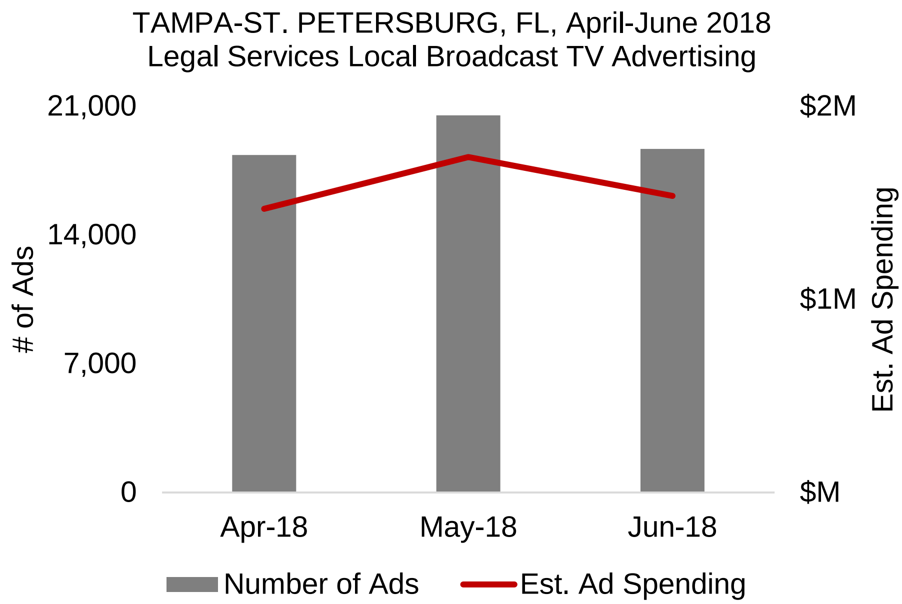
Estimated spending on local legal services TV ads in the San Francisco media market increased in June over April and May – while the number of ads airing locally decreased. This discrepancy could be due to a variety of factors including a spike in advertiser demand driving rates higher or a shift to advertising fewer ads but during more expensive times of the day to purchase advertising time.

FLORIDA

Across the country, the two largest markets in Florida -- Tampa-St. Petersburg and Miami-Ft. Lauderdale -- also saw significant volumes of local legal services advertising in the second quarter.

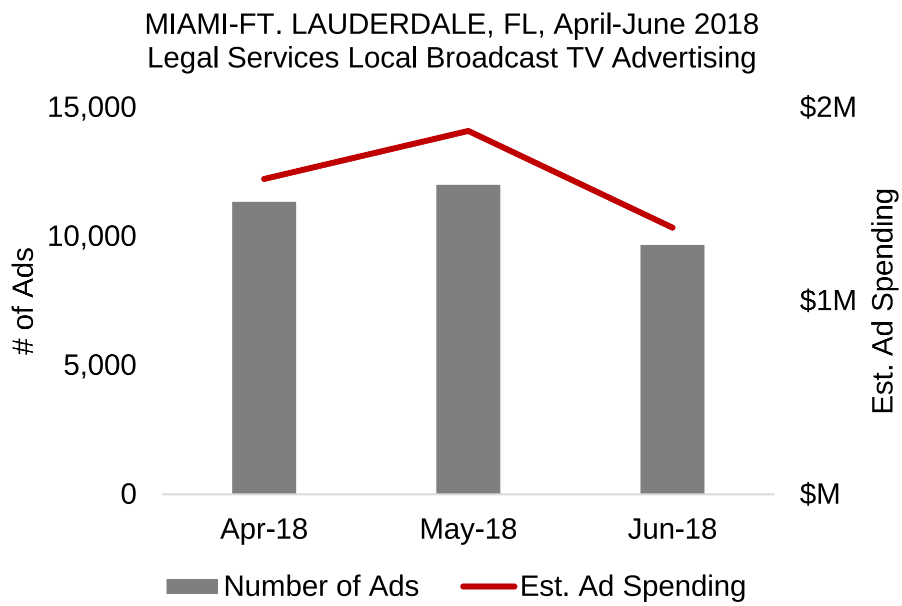
Tampa-St. Petersburg

With 1.9 million TV homes, Tampa-St. Petersburg, Florida is the thirteenth largest media market in the country. Lawyers, law firms and others advertising legal services and soliciting legal claims on local broadcast TV networks there spent an estimated $4.7 million there to broadcast 58,000 ads in the second quarter -- an average of 630 ads every day or a legal services ad every two minutes from April through June. In fact, Tampa saw a disproportionate share of local legal services TV ads relative to its size. While it accounts for 1.676% of US TV homes nationally, 1.953% of all local legal services TV ads broadcast across the country aired in Tampa-St. Petersburg in the second quarter.



Miami-Ft. Lauderdale

The second-largest media market in Florida -- Miami-Ft. Lauderdale -- with 1.7 million TV homes saw 33,000 local legal services TV ads in the second quarter at an estimated cost of nearly $4.9 million. Ten times as many legal services ads ran in the Miami media market in the second quarter as ads for pizza delivery and restaurants.

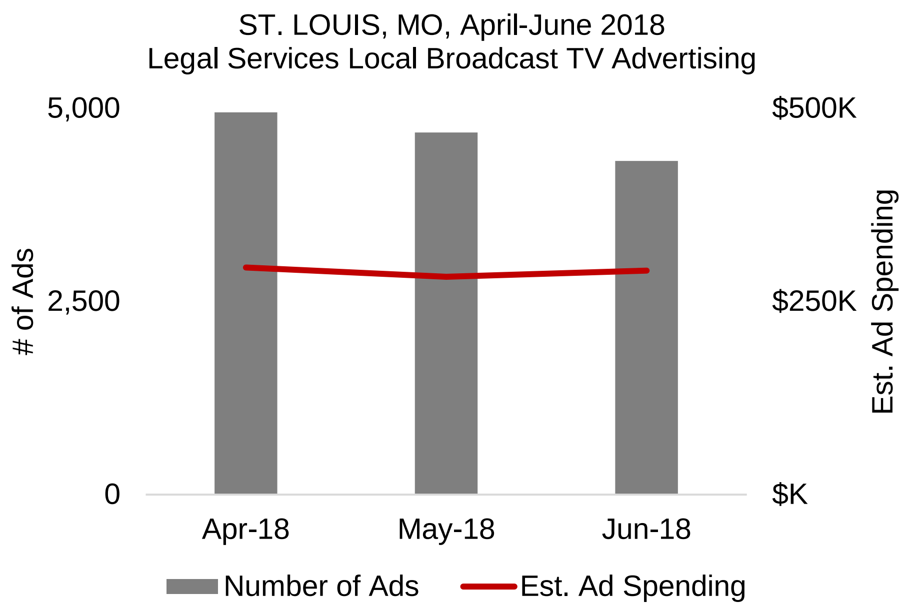


MISSOURI

Nearly 37,000 legal services ads were broadcast locally from April through June 2018 in the two largest media markets in Missouri -- St. Louis and Kansas City.

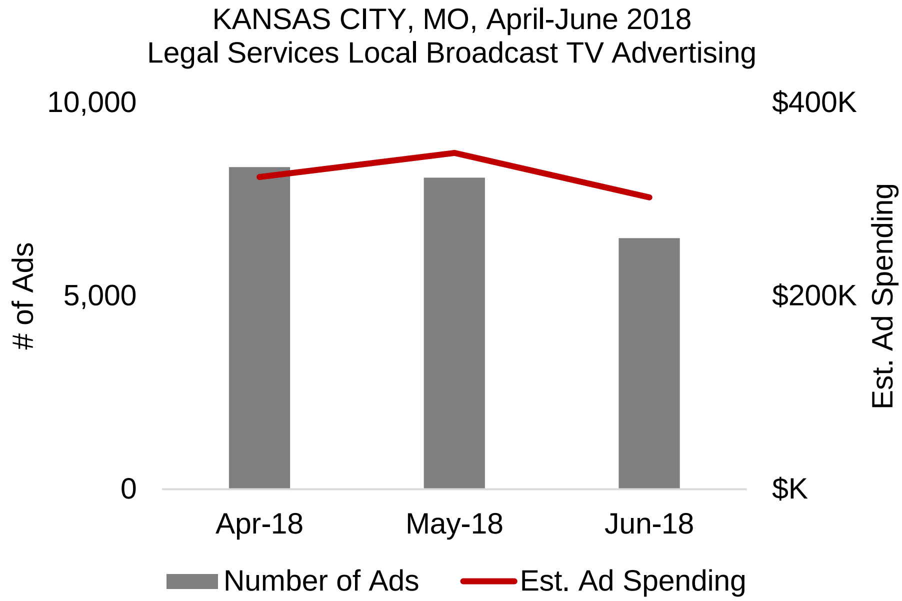
St. Louis

Television viewers in the St. Louis media market saw about 14,000 locally broadcast ads by lawyers, law firms and others soliciting legal claims in the second quarter purchased at an estimated cost of over $860,000 -- an average of 153 ads per day during this time or nine times as many ads as those for pizza delivery and restaurants.



Kansas City

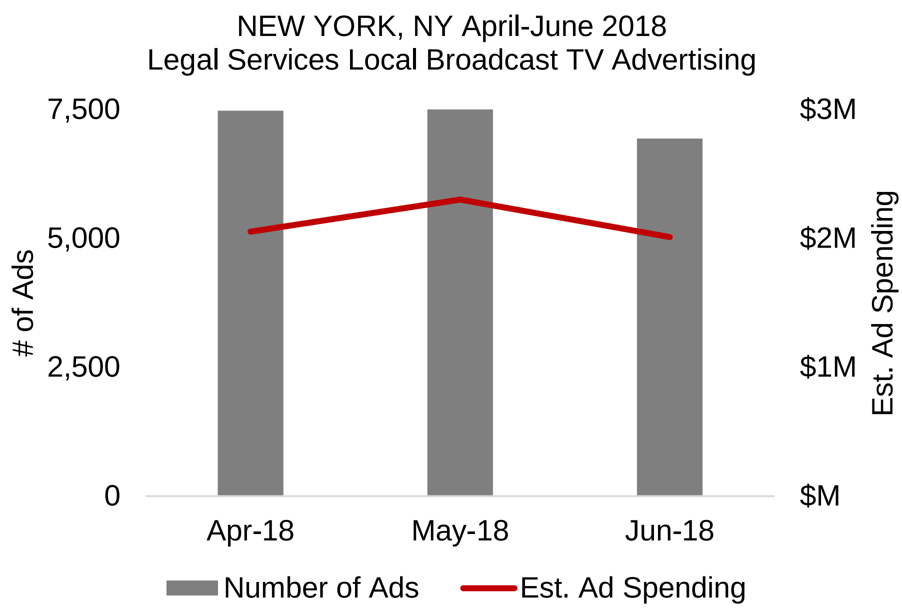
Although a smaller market than St. Louis by nearly 300,000 TV homes, nearly twice as many legal services ads aired locally in the Kansas City, Missouri media market in the second quarter. Almost 23,000 of these ads aired locally there at an estimated cost of $1.2 million – an average of 10 ads per hour. This was eight times as many local ads as those for clothing stores during this time.



NEW YORK

New York

In the largest media market in the country -- the market encompassing New York City -- over 22,000 legal services ads were broadcast locally from April through June at an estimated cost of $6.4 million or an average of over $70,000 spent each day. Twenty times as many legal TV ads ran locally there as ads for pizza delivery and restaurants and nine times as often as local TV for clothing stores.



Source material

Data analysis in this report provided by X Ante using data from Kantar Media CMAG. X Ante monitors and reports on advertising and monitoring by lawyers, law firms and other soliciting legal claims on television, radio, online, social media and elsewhere. The television advertising coverage includes expenditures and commercial occurrences by attorneys and law firms in 210 media markets and on 12 national broadcast networks, 8 Spanish-language networks, and more than 80 national cable networks. X Ante has provided this data and analysis to prominent law firms and Fortune 500 companies.

Materials reviewed

In compiling this report, X Ante examined comprehensive data sets on commercial occurrence and expenditure information for television advertisements sponsored by attorneys and/or law firms seeking claimants on local broadcast television networks in the selected media markets.

The data examined included monthly totals of estimated spending on legal services advertising and the number of times these ads aired each month from April 2018 through June 2018.

The data was gathered and provided by the Campaign Media Analysis Group (CMAG), a Kantar Media Solution, that monitors, codes and aggregates television advertising information 21 hours a day (5:00 AM - 2:00 AM) utilizing the MediaWatch Technology – an automated, patented and proprietary system. The monitored stations constitute the principal stations in each market, typically including the network affiliates and major independents.

CMAG staff watch, review, and code every ad to determine the messages used in each and the content information is merged with the automated placement and spending information.

The system is designed to capture new commercials as they first air and then track every succeeding airing of each commercial across the universe of TV platforms outlined above.

The spot occurrence and placement data are automatically assigned by the system. The spending rates are estimated according to quarterly polling by Kantar Media of television stations and advertising industry sources to determine average 30-second advertising daypart-level rates and program rates for sports and special programming for the upcoming quarter. To account for the time it takes for any given rate to populate within the system, CMAG uses an average cost function based on rates from historical program averages airing in the same market on the same station during the same daypart. These temporary estimates are updated with actual sourced rates when they become available.

Several weeks after the local data are produced, Kantar Media receives the results from a national broadcasting industry survey conducted monthly by the Television Bureau of Advertising (TVB). This new information provides a national advertising growth trend as reported by responding stations. Expenditures are adjusted to reflect these industry spot revenue patterns. Once this final rate data is available, all temporary rates calculated using the average cost function are replaced with the final data.