

Decision No. 87644 JUL 26 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RANDALL WILKES,)
)
 Plaintiff,)
)
 vs.)
)
 PACIFIC TELEPHONE COMPANY,)
)
 Defendant.)

Case No. 10377
(Filed July 22, 1977)

ORDER DENYING REQUEST FOR
A TEMPORARY RESTRAINING ORDER

On June 27, 1977 the Supreme Court of the United States issued its ruling in Bates v State Bar of Arizona (U.S. Law Week 45 LW 4895) wherein the Supreme Court held that attorneys had the right to advertise routine legal services.

On or about July 5, 1977 complainant, an attorney practicing in Santa Rosa, Sonoma County, telephoned defendant and placed an order for a display ad advertising his legal services to be placed in the forthcoming yellow page directory for Sonoma County. Complainant was informed that the deadline for placing such an ad was July 28, 1977 and that his ad would be accepted. On July 19, 1977 an employee in the yellow page section of defendant informed complainant that defendant would not accept yellow page display ads by attorneys on the advice of the legal department of defendant. Complainant contacted the legal department of defendant and was informed that defendant would not accept yellow page advertising from attorneys at this time.

Defendant intends to permit attorneys to advertise but suggests that all attorneys be given equal opportunity to place ads. Therefore defendant recommends that ads for attorneys be accepted only when there has been a substantial solicitation period within which to submit ads.

Complainant asserts that he will suffer irreparable harm and extensive loss of revenue and it will deprive the public of its right to have and obtain valuable information concerning attorneys from the yellow pages for one complete year, at least, if his ad is not accepted. Complainant requests the Commission to issue a temporary restraining order against defendant preventing it from refusing to accept such ads and from issuing a new directory for Sonoma County until such time as this matter can be heard or that the Commission issue a directive to defendant requiring acceptance of complainant's ad for publication in its forthcoming telephone directory for Sonoma County.

Defendant began soliciting ads for its Sonoma County directory on March 28, 1977 and will close its solicitation on July 28, 1977 so that the advertisements may be sent to the printer, the books printed and distributed, and work begun on other directories in California.

We will not restrain defendant from publishing its yellow page directory for Sonoma County until this matter can be heard because a prompt hearing and decision in this matter could take months. We cannot, for the convenience of one attorney, delay the publication of advertising which is important to the many hundreds, if not thousands, of advertisers in Sonoma County and the public which relies upon those advertisements. Nor will we order defendant to publish complainant's ad. As can be seen from the dates involved in this case, defendant has been offering ads in the Sonoma County yellow pages for a number of months. The opportunity for attorneys to advertise has been known only for a few weeks. To permit complainant's ad without informing all other attorneys who would use the service that advertising was now available and giving them all a chance to determine whether they should advertise or not would be discriminatory against those attorneys who did not have the information available to complainant, nor the time within which to

formulate advertising policy. The Sonoma County yellow pages when published will be in effect for a year; those who are in the book will have the advantage of a year's advertising, those who are not in the book will have to wait until the next book is published. To grant the complaint would give complainant an unfair advantage; to deny the complaint keeps complainant on an equal footing with all.

Therefore, IT IS ORDERED that the request for a temporary restraining order is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 26th day of JULY, 1977.

Robert Batyriand
President
William Lyons, Jr.
Vernon L. Sturgeon
Richard D. Swalle

Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.