

SUPREME COURT OF WISCONSIN

In the Matter of the Amendment of
Supreme Court Rules: SCR 20:7.4 --
Lawyers' Communication of Fields of
Practice

ORDER
No. 96-07

On September 11, 1996, the court held a public hearing on the petition filed by the Board of Governors of the State Bar of Wisconsin and the Board of Attorneys Professional Responsibility seeking the amendment of SCR 20:7.4 to authorize a lawyer to communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization or authority approved by the American Bar Association to grant certification, subject to the American Bar Association's standards and criteria for accreditation of specialty programs. The petition also sought corresponding amendment of the Comment to SCR 20:7.4. The court has considered the petition, the presentations at the public hearing and the material submitted to the court in connection with the proposal.

IT IS ORDERED that, effective the date of this order, Supreme Court Rule 20:7.4 and Comment are amended to read:

SCR 20:7.4 Communication of fields of practice

A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is a "specialist", "certified", or words of similar import except as follows:

(a) ~~a~~ A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "patent attorney" or a substantially similar designation; ~~and.~~

(b) ~~a~~ A lawyer engaged in admiralty practice may use the designation "admiralty"~~, "proctor in admiralty"~~ or a substantially similar designation.

(c) A lawyer may communicate the fact that he or she has been certified as a specialist in a field of law by a named organization or authority but only if that certification is granted by an organization or authority whose specialty certification program is accredited by the American Bar Association.

COMMENT: This rule permits a lawyer to indicate areas of practice in communications about the lawyer's services; for example, in a telephone directory or other advertising. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. ~~However, stating that the lawyer is a "specialist" or that the lawyer's practice "is limited to" or "concentrated in" particular fields is not permitted. These terms have acquired a secondary meaning implying formal recognition as a specialist. Hence, use of these terms may be misleading unless the lawyer is certified or recognized in accordance with procedures in the state where the lawyer is licensed to practice. All communications are, however, subject to the "false and misleading" standard of SCR 20:7.1 in respect to communications concerning a lawyer's services.~~

A lawyer may not communicate that the lawyer is a specialist or has been recognized or certified as a specialist in a particular field of law, except as provided by this rule. Recognition of specialization in patent matters is a matter of long established policy of the Patent and Trademark Office, as reflected in paragraph (a). Paragraph (b) recognizes that the ~~Designation~~ designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.

Paragraph (c) permits a lawyer to communicate that the lawyer has been certified as a specialist in a field of law when the American Bar Association has accredited the organization's specialty program to grant such certification. Certification procedures imply that an objective entity has recognized a lawyer's higher degree of specialized ability than is suggested by general licensure to practice law. Those objective entities may be expected to apply standards of competence, experience and knowledge to insure that a lawyer's recognition as a specialist is meaningful and reliable. In order to insure that consumers can obtain access to useful certification, the name of the certifying organization or agency must be included in any communication regarding the certification.

See, *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91, 110 S.Ct. 2281, 110 L.Ed.2d 83 (1990).

IT IS FURTHER ORDERED that notice of this amendment of the Supreme Court Rules shall be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 28th day of October, 1996.

BY THE COURT:

Marilyn L. Graves, Clerk

GESKE, J., did not participate.