

Know the Rules Governing "Specialist" Ads for Lawyers

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Many lawyers seek to expand their client base by advertising their legal services. Rules 7.1 through 7.5, Minnesota Rules of Professional Conduct (MRPC), govern how Minnesota attorneys can advertise their legal services.

This article focuses on Rule 7.4(b), MRPC, regarding how a Minnesota attorney can advertise his fields of practice to the public.

Case Study

Larry Lawyer worked as a county attorney for a number of years. Larry decided to leave the employ of the county and open up his own law firm. In order to build a client base, Larry Lawyer decided to place an advertisement in a local legal periodical. Larry Lawyer's advertisement stated the following:

1. Larry Lawyer's Name
2. An announcement regarding the opening of Larry Lawyer's law firm.
3. A telephone number of Larry Lawyer's law firm.
4. A statement regarding the prior legal experience of Larry Lawyer.
5. The phrase "specializing in criminal defense."

Although Larry Lawyer had practiced in the area of criminal law for years, he was not certified as a specialist in the area of criminal law. Rule 7.4(b), MRPC, states, "[a] lawyer shall not state that the lawyer is a specialist in a field of law unless the lawyer is currently certified or approved as a specialist in that field by an organization that is approved by the State Board of Legal Certification."

The Minnesota State Board of Legal Certification regulates the certification of lawyers as specialists, so that public access to appropriate legal services may be enhanced. Larry Lawyer's representation that he was "specializing" in criminal defense violated Rule 7.4(b), MRPC, by implying that he was a certified specialist in criminal law. Larry unsuccessfully argued that using the word "specializing" instead of "specialist" and submitting his professional announcement to a periodical that is directed at lawyers, rather than the general public, negated the Rule 7.4(b) violation.

Larry could have permissibly advertised his expertise as a criminal lawyer. His ad could have referred to his substantial experience in criminal law as a former county attorney or the fact that he was limiting his practice to criminal matters. It was his use of the word "specializing" that presented the problem and potential for confusion with those who are in fact certified as specialists.

Discipline

Larry Lawyer was issued a private admonition for a violation that was isolated and non-serious. Larry's violation did not appear to have caused any serious harm to the public. No client or potential client had complained that Larry's professional announcement misled them and it appeared that Larry was qualified in the area of criminal law. Moreover, Larry Lawyer agreed that he would not use the term in the future unless he was a certified specialist.

State Board of Legal Certification

The state board does not itself certify lawyers as specialists. Instead, the Board approves the certifying agencies who in turn certify the lawyers as specialists after the lawyers have demonstrated their compliance with experience and educational standards established by the agency and approved by the state board. As of May 18, 1998, Minnesota lawyers may become certified as specialists in the following fields of law by contacting the persons listed below:

Civil Trial Practice, Real Property

Minnesota State Bar Association

514 Nicollet Mall

Suite 300

Minneapolis, MN 55402

Beth Somerville

(612) 673-6318 -- Fax (612) 333-4927

Civil Trial Practice, Criminal Law

National Board of Trial Advocacy

18 Tremont Street

4th Floor, Suite 403

Boston, MA 02108

Roberta Hugus

(617) 720-2032 -- Fax (617) 720-2038

Consumer Bankruptcy, Business Bankruptcy

American Board of Certification

44 Canal Center Plaza

Suite 404

Alexandria, VA 22314-1592

Michelle Anderson

(703) 739-1023 -- Fax (703) 739-1060

Business Bankruptcy, Creditors' Rights

Commercial Law League of America

150 North Michigan

Suite 600

Chicago, IL 60601

Max G. Moses

(312) 781-2000 -- Fax (312) 781-2010

Elder Law

National Elder Law Foundation

1604 North County Club Road

Tucson, AZ 85716

Deborah J. Barnett

(520) 881-1076 -- Fax (520) 325-7925

The above list of fields of law is constantly being updated and changed by the State Board of Legal Certification. If a lawyer wishes to become certified as a specialist in the field of law, he or she should contact one of the above agencies or the State Board of Legal Certification, 110 Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155, telephone (612) 297-1857.