

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1379

Amending Alaska Rule of Professional Conduct 7.4 concerning communication of fields of practice and certification.

IT IS ORDERED:

Alaska Rule of Professional Conduct 7.4 is amended to read as follows:

~~(a)~~ 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 ~~has been recognized or certified as a specialist in a particular field of law~~ is a "specialist," "certified," or words of similar import except as follows:

~~(1)~~ (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

~~(2)~~ (b) a lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization or authority, ~~provided that the communication clearly states the Alaska Bar Association does not accredit or endorse certifying organizations~~ but only if that certification is granted by an organization or authority whose specialty certification program is accredited by the American Bar Association.

~~ALASKA COMMENT~~

~~Paragraph (b) was deleted from ABA Model Rule 7.4 because the Committee concluded that under modern practice the field of admiralty is no longer a unique specialization.~~

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 to so indicate. All communications are, however, subject to the "false and misleading" standard of Rule 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). The American Bar Association's Model Rule 7.4 also permits attorneys who specialize in admiralty law to use the designation "proctor in admiralty" or otherwise hold themselves out as specialists in admiralty. This exception was not included in Alaska's Professional Conduct Rule 7.4 because the Alaska Bar Association's Committee on the Rules of Professional Conduct concluded that under modern practice the field of admiralty is no longer a unique specialization.

Paragraph (b) permits a lawyer to communicate that the lawyer has been certified as 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 information, the name of the certifying organization or agency must be included in any communication regarding the certification.

See Peel v. Attorney Registration & Disciplinary Comm'n, 496 U.S. 91, 110 S.Ct. 2281, 110 L.Ed.2d 83 (1990).

DATED: December 16, 1999

EFFECTIVE DATE: April 15, 2000

/s/
Chief Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Bryner

/s/
Justice Carpeneti