

**STATE BAR OF NEVADA  
STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY**

**Formal Opinion No. 17  
February 25, 1994**

**QUESTION** - May a lawyer advertise that the lawyer is willing to accept cases in more than three areas of law?

**ANSWER** - Supreme Court Rule 198 prohibits the advertising of more than three designated areas of practice.

**AUTHORITIES RELIED ON**

Nevada Rule of Professional Conduct (Supreme Court Rule) 151, 195 and 198, and Peel v. Attorney Registration and Disciplinary Commission of Illinois, 446 U.S. 91 (1990).

**DISCUSSION**

Nevada Supreme Court Rule 198 reads in pertinent part as follows:

"A lawyer shall not communicate that the lawyer ....does or does not practice in particular fields of law, except in accordance with this Rule."

The fundamental question is whether an attorney who does not intend to indicate either special skill or concentration in fields of practice is covered by SCR 198. The answer lies in the misleading or deceptive nature of a listing of particular fields of practice without either a comprehensive disclaimer or words of limitation such as "Practice limited to ...," or "Practicing primarily in ....".

The committee cannot envision an advertisement which lists several areas of practice for a lawyer which, without an appropriate explanation or disclaimer<sup>1</sup>, would not mislead the

<sup>1</sup>The committee recommends the following disclaimer language: "This attorney has not met the minimum training and experience requirements of SCR 198 for the fields of practice listed herein." As uninviting as this language may appear, it would otherwise be reader into assuming that the lawyer concentrates in those fields of practice.

A lawyer who properly complies with SCR 198 must meet stringent continuing legal education requirements as well as annual practice requirements for the field(s) listed. Such requirements provide at least a minimal level of assurance that lawyer has a degree of experience and training in the listed field(s) which another lawyer may not have. SCR 198 would be meaningless if any lawyer could imply the same level of competence simply by eliminating the phrase "practice limited to ..." or "practicing primarily in ...".

A review of the lawyer section of the yellow pages reveals that the attorneys who list more than three fields of practice appear to do so by listing numerous fields under the heading of "General Practice". The rationalization appears to be that such a listing educates the public as to what a general practitioner does, and because the listing is definitional in nature, no specific skill is intended or implied. <sup>2</sup>

The impact of each advertisement must be reviewed on its own, but generally, such a comprehensive listing, if definitional in nature, may not appear to be misleading and may, therefore, be constitutionally permitted<sup>3</sup>. However, a listing of only 4 or 5 areas under a heading of "General Practice" would appear to be a misleading and deceptive attempt to limit one's practice and imply areas of concentration, and thus be in violation of SCR 198. (An attorney who meets the requirements of SCR 198 in up to three fields of practice, but wishes to list more than three areas, may do so, but only with an appropriate explanation or designation as to those fields of practice in which the attorney meets the CLE and experience requirements and those fields of practice in which the attorney does not.)

Impossible to perceive a difference between those attorneys whose advertisements comply with SCR 198 and those attorneys whose advertisements do not comply.

2The yellow pages also reveals that some attorneys advertise three or less areas of practice without any indication as to whether the requirements of SCR 198 are being met. The bar is reminded that the disclaimer language of SCR 198(3)(b) is required for advertisements of three or less fields of practice. Otherwise, a suitable explanation, such as the one suggested in footnote 1 above, must be included to avoid the deception inherent in such an advertisement.

3See *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91 (1990).

## **CONCLUSION**

While every advertisement must be reviewed on its own, the committee believes that a listing of more than three areas of practice would be a violation of SCR 198 unless such a listing does not imply special training, skill, or experience in the areas listed and contains an appropriate disclaimer.

*This opinion is issued by the Standing Committee on Ethics and Professional Responsibility of the State Bar of Nevada, pursuant to SCR 225. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, its Board of Governors, any person or tribunal charged with regulatory responsibilities, or any member of the State Bar.*