
Wisconsin Memorandum Ethics Opinion 5/69
**Communicating with other party while copying that party's counsel
improper.**

Revised July 25, 2024

SCR 20:4.2(a) prohibits a lawyer from communicating about the subject of the representation with a person the lawyer knows to be represented in the matter. A lawyer who represents a client in a matter, and who sends a communication directly to another represented person or entity in the matter while simultaneously copying the represented person's counsel violates SCR 20:4.2(a) unless the lawyer has the represented person's counsel's consent to do so.¹ A communication that is copied to the represented person's counsel is a communication, and the fact that opposing counsel is copied on the communication is not a substitute for the consent required by the black letter of the rule. See e.g. OLR Private Reprimand Summary 1996-25. Such a communication may be permissible if the communication is authorized by law or court order.

¹ This opinion does not address situations in which a sending lawyer copies their own client on an e-mail with opposing counsel who then responds with "reply all." For a discussion of such a situation, see ABA Formal Ethics Opinion 503 (2022).