
**E-83-1 Advertising for plaintiffs in a class
action or other lawsuit**

Question

May attorneys advertise for clients in a class action suit or in any other lawsuit?

Answer:

Yes.

Opinion

Several Wisconsin Supreme Court Rules are relevant to your inquiry. SCR 20.07(1) prohibits a lawyer from using any form of public communication that contains professionally self-laudatory statements calculated to attract lay clients. SCR 20.08(7) permits a lawyer to advertise the lawyer's ability to provide legal services except the use of advertisements which are false, misleading, deceptive, or unfair and provides that any provision of Chapter 20 which conflicts with that subsection is suspended. We would also direct your attention to the official comment associated with SCR 20.08(7).

The Wisconsin Supreme Court recently addressed the issue of whether particular newspaper advertisements were false, misleading, or deceptive in *In Re Disciplinary Proceedings Against Marcus and Tepper*, 107 Wis. 2d 560, 320 N.W. 2d 806 (1982).

The court reviewed several recent decisions of the U.S. Supreme Court regarding attorney advertising and commercial speech and the burden of proof in disciplinary cases involving attorney advertising as well as recent Wisconsin decisions on attorney discipline. Relying heavily on the U.S. Supreme Court decision in *In Re R.M.J.*, 71 L. Ed. 2d 62 (1982), the court held that (1) SCR 20.08(7)(a) requires that the party seeking to impose discipline, in this case the Board of Attorneys Professional Responsibility, to bear the burden of proving by clear and satisfactory evidence that advertisements violate the rule; and (2)

that the particular advertisements were not inherently false, misleading, or deceptive. *See also In Re Discipline of Appert*, 315 N.W. 2d 204 (1981).

In light of the above court rules and opinions, the Professional Ethics Committee answers your question in the affirmative.