



**New York State Bar Association  
Committee on Professional Ethics**

Opinion 1021 (9/12/2014)

Topic: Use of the word “expert” in law firm domain name

Digest: A law firm may not use a domain name that couples the word “expert” with the law firm’s area of concentration.

Rules: 7.1, 7.4, 7.5

**QUESTION**

1. The inquiring law firm asks whether the firm may use, as its website domain name, the firm’s sole field of practice with the word “expert” added.

**Background**

2. The inquiring law firm practices exclusively in one area of law, in which, it is said, the firm “has a very successful track record.” The firm wishes to use as its internet website domain name a combination of the name of its sole practice area and the word “expert,” for example, “realestatelawexpert” or “bankruptcylawexpert,” or the like. The inquirer says that the website will elsewhere contain a disclaimer that the firm does not guarantee any favorable outcomes, and that past success does not assure future results. The law firm says that the firm will not use the word “expert” except in its domain name.

**OPINION**

3. N.Y. Rule of Professional Conduct 7.5(e)(3) specifically addresses domain names, so we begin our discussion there. That Rule says that a lawyer or law firm may use “a domain name for an internet web site that does not include the name of the lawyer or law firm provided,” among other things, that “the domain name does not imply an ability to obtain results in a matter.” Comment 2 accompanying this Rule notes that “a personal injury firm could not use the domain name [www.win-your-case.com](http://www.win-your-case.com) or [www.settle-for-more.com](http://www.settle-for-more.com) because such names imply that the law firm can obtain favorable results in every matter regardless of the particular facts and circumstances.” We echoed this sentiment, albeit in the context of a different form of advertising, in our Opinion 1005 (2014), in which we concluded that a claim “We Know How To Win For You” was impermissible under Rule 7.1, adding that “[m]erely posting the disclaimer that ‘Prior results do not guarantee a similar outcome’ will not cure the ethical infirmity of the proposed advertising.”

4. The word “expert” in a domain name is laden with claims of comparison. In its common and ordinary meaning, the word denotes having been “proved or approved by test,” or a

sense of relative superiority “having special skill or knowledge derived from training or experience” or “knowing and ready as a result of wide experience or extensive practice.” *Webster’s Third (Unabridged) International Dictionary* 800 (2002). The implication of the word is that the law firm may bring to the matter a seal of approval that provides comparatively greater assurance of some favorable outcome which no disclaimer may readily cure.

5. We need not rely on Rule 7.5(e) alone, however, for two other Rules accent our point. First, Comment 12 accompanying Rule 7.1 teaches that “descriptions of characteristics of the law firm that compare its services with those of other law firms and that are not susceptible of being factually supported could be misleading to potential clients. Accordingly, a lawyer may not advertise that the lawyer is the ‘Best,’ ‘Most Experienced,’ or ‘Hardest Working.’” To us, the use of the word “expert” is exactly the sort of description that the Comment intends lawyers to avoid – an avoidance that a disclaimer about the past does not fix.

6. Second, Rule 7.4 provides that a lawyer may claim to be recognized or certified as a “specialist” only in certain specific circumstances, none applicable here, and then only if married to a statement qualifying the limits on the “specialist” label. The word “expert” is an obvious synonym for the word “specialist.” *See, e.g., Roget’s International Thesaurus* 639 (7<sup>th</sup> ed. 2010) (listing “expert” as synonym for “specialist”). To suppose that the framers of Rule 7.4 would so restrict the use of the word “specialist” but approve the use of the near-identical label of “expert” is incongruous. Other jurisdictions agree. *Spencer v. The Honorable Justices of the Supreme Court of Pennsylvania*, 579 F. Supp. 880, 885-88 (E.D. Pa. 1984); Maryland Op. 00-21; Ohio Opinion 2005-06; *cf.* N.Y. State 757 (2002) (no support in rules for use of “expert” even in communications with other lawyers).

7. Nothing in this opinion is intended or should be interpreted to prevent a lawyer from offering or advertising the lawyer’s services as an expert witness, whether as a testifying or consulting expert. Courts frequently qualify lawyers as experts to provide admissible testimony on issues in dispute in civil and criminal actions, arbitrations, and other dispute resolution forums. A common example is testimony in a legal malpractice action concerning, among other things, the reasonable standard of care applicable to the legal services in question. The use of the word “expert” in this context, which is typically though not always directed to other lawyers, does not raise the concerns set forth above about claims of superiority to the general public.

## CONCLUSION

8. In sum, we conclude that a law firm may not use the word “expert” in the law firm’s domain name regardless of whether the website otherwise contains a disclaimer that prior results do not guarantee future results.