

*NEW YORK STATE BAR ASSOCIATION*  
*Professional Ethics Committee Opinion*

Opinion #131 - 4/9/70 (1-70)

Topic: Process serving agency; Conflict of interest; Appearance of impropriety; Solicitation of business; Business interests

Digest: An attorney may not use an agency for the service of process in which he has an interest without divulging same to client

Code: EC 5-19; 2-8; 2-9, DR 5-101 (A); 2-103

QUESTION

May an attorney use, on behalf of his client, a process serving agency in which he has a pecuniary interest?

OPINION

In his representation of a client, a lawyer may retain a process service agency in which he has a pecuniary interest provided the client is fully informed and consents to the arrangement. (EC 5-19, DR 5-101 (A).)

If the lawyer is in a position to influence or control the operation of the agency, it should not be used to serve process on clients of the lawyer.

The use of such agency to solicit business for the attorney is prohibited. (EC 2-8, 2-9, DR 2-103.)