

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

OPINION

Canon 35 of the Canons of Professional Ethics provides as follows:

"The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. -----

"A lawyer may accept employment from any organization, such as an association, club or trade organization, to render legal services in any matter in which the organization, as an entity, is interested, but this employment should not include the rendering of legal services to the members of such an organization in respect to their individual affairs."

As to both questions, it is this Committee's opinion that it would not be ethically proper for the lawyer to represent these chiropractors unless he is retained directly by the chiropractors without intervention by the corporation. See the following opinions: Assn. of the Bar of the City of N.Y. No.38 (association of tenants), No. 92 (hairdressers' association), and No. 135 (nurses' association); and Opinion No. 363 of the N.Y.County Lawyers' Assn. (school teachers' association).

Opinion #57 - 3/31/67 (11-67)

Topic: Conflict of Interest.
Part-Time Judge Representing
Defendants in Other Courts.

Modified by 228

Digest: Part-time police justice may defend clients in other courts so long as client is not charged with violation of ordinance within jurisdiction of police justice.

Canon: Judicial Canons 24, 31

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QUESTION

Is it proper for an Acting Police Justice of an incorporated Village, which position pays no salary, who continues in the private practice of law, to represent defendants in criminal matters in a court other than the court to which he has been appointed?

OPINION

Canon 24 of the Canons of Judicial Ethics provides as follows:

"A judge should not accept inconsistent duties nor incur obligations, pecuniary or otherwise, which will in any way interfere or appear to interfere with his devotion to the expeditious and proper administration of his official functions."

Canon 31 of the Canons of Judicial Ethics provides that a judge who is not forbidden to practice law, and does practice, "is in a position of great delicacy and must be scrupulously careful to avoid conduct in his practice whereby he utilizes or seems to utilize his judicial position to further his professional success."

"He should not practice in the Court in which he is a judge, even when presided over by another judge, or appear therein for himself in any controversy."

This Committee finds no impropriety in a Police Justice who presides over an inferior court defending persons charged with offenses before another Justice Court, District Court, Supreme Court or Appellate Court, even though privately retained for compensation as long as the defendant is not charged with violating an ordinance of the community in which the attorney acts as Justice. Such practice is permitted by Canon 31 of the Canons of Judicial Ethics, subject to the limitation that the Police Justice so practicing shall scrupulously avoid conduct "whereby he utilizes or seems to utilize his judicial position to further his professional success".

Opinion #58 - 5/23/67 (10-67)

Topic: Firm Name.
Attorney Named to Public Office.

Modified by 233

Digest: Lawyer named to public office may keep his name in former firm so long as not misleading to clients and others, and firm does not appear before that body.

Canon: Former Canon 33