

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

Opinion #71 - 2/28/68 (30-67)    Topic: Advertising and Solicitation.  
Legal Aid Societies.

Digest: Legal Aid Society circulars should inform indigents of their rights and available facilities rather than solicit clients or stir up litigation.

Canon: Former Canons 27, 28

QUESTION

The Legal Aid Society of Albany, Inc., proposes to distribute four "Legal Rights Circulars" in low income areas through community centers and Legal Aid Society branch offices. The circulars attempt to portray in simple, colorful, graphic terms some important aspects of the law which are of great importance to persons living in slum areas. Specifically, they deal with landlord and tenant relations, grounds for divorce behavior and rights in case of arrest and duties in case of automobile accident. They have headings like, "New Grounds for Divorce"; "If you have an accident"; "Every tenant should know"; and "If you're arrested". The body of the circulars states what the law is or the rights of the individual and point out the Legal Aid Society or the Rent Control Commission is available to protect their rights. The circulars give the name and address of the society and the names of some of its officers.

The society states that based upon the experience of other legal service projects throughout the country, it is their opinion that low-income groups do not read material which is too detailed or wordy; and hence the circulars are kept as simple as possible.

The Committee is asked whether the distribution of the circulars would be consistent with the Canons of Ethics.

OPINION

Canon 27 provides that it is "unprofessional to solicit professional employment by circulars, advertisements", etc. Canon 28 forbids a lawyer "to volunteer advice to bring a lawsuit", or to stir up "strife and litigation", or "to hunt up...causes of action and inform thereof in order to be employed to bring suit or collect judgment, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients".

These prohibitions, when read literally, might seem to prohibit the circulars prepared by the Legal Aid Society of Albany. But the fundamental purpose of such prohibitions is to prevent commercialization by lawyers and efforts to obtain lucrative business. Steps taken by bar associations or analogous organizations to promote public, benevolent or charitable interests as distinguished from the private interests of individual lawyers are not intended to be proscribed by these canons.

Opinion 148 of the Ethics Committee of the ABA issued in 1935, so held in connection with a similar activity of the National Lawyers

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Committee of the American Liberty League which attempted to provide legal assistance without compensation to indigent citizens. In Opinion 121, the ABA Committee approved advertisements of bar associations informing the public how and when to consult a lawyer on various legal matters. See also Opinions 191 and 284, and Informal Opinions 786 and 888 of that Committee.

Accordingly, it is the opinion of this Committee that legal aid societies may distribute circulars of the kind described above. However, it is also our opinion that such circulars must be accurate, dignified and in good taste and that their function should be to inform indigent citizens of their rights, the facilities available and for protection of such rights, rather than to solicit clients or stir up litigation. Solicitation and incitement of controversy, when conducted in the belief that they promote the public interest or benefit the indigent, detract from the dignity of the profession and are unprofessional. The content of the circulars should conform to these standards.

Including in the circulars the names of officers of the society seems to be unnecessary and if the individuals named are practicing lawyers and not full-time employees of the society, inclusion of their names is improper.

Opinion #72 - 3/1/68 (33-67)

Topic: Advertising.  
Directories.

Digest: Distinctive listing in telephone directories improper.

Canon: Former Canon 27

QUESTION

In listing an attorney in a telephone or other directory, may the listing be distinctive by the use of bold face type?

OPINION

When a lawyer's name is published in a directory in a type of a size or style distinctive from that in which the names of other subscribers are listed, it becomes a form of advertising and falls within the purview of Canon 27. A lawyer's conduct in causing it to be published in such a manner must be condemned.

ABA Opinion 284 stated that the use of bold face type in a classified listing composed solely of other lawyers, indicated a studied purpose to single oneself for special notice over and above his fellow lawyers. (Accord ABA Opinions 53 and 123.)

Recently, ABA Informal Opinion 487, condemned "the listing of a lawyer's name in a distinctive type in a telephone or city directory in the regular or classified sections. Such a distinctive means of self-classification ... is improper advertising and offends Canon 27."