

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinion

OPINION

The general principles governing approval of lawyer participation in group legal service programs are set forth in our Opinion #76. Both of the proposed plans appear to be consonant with the decisions of the United States Supreme Court in United Mine Workers v. Illinois State Bar Association, 389 U.S. 217 (1967); Railroad Trainmen v. Virginia State Bar Association, 377 U.S. 1 (1964); and NAACP v. Button, 371 U.S. 415 (1963). Plans organized by dissident union members limited to the handling of grievance claims of such members do not appear to be distinguishable under these cases from plans organized by a union to prosecute workmen's compensation claims or other personal injury claims arising out of employment.

Of course, lawyers accepting referrals and employment under any such group service program must comply with all professional standards and canons which do not interfere with constitutionally guaranteed rights. Thus a lawyer would not be justified in financing such a program, either directly or indirectly. He could not solicit union members either to join the plan or to refer grievance matters to him. The program must be organized and operated so as to avoid problems of conflict of interest. There must also be adequate assurance that the plan will impair neither the lawyer's independence of professional judgment nor his obligation of undivided fidelity to each individual client.

Opinion #81 - 6/6/68 (16-68)

Modified by 106  
Modified by 403

Topic: DIRECTORY LISTINGS  
Digest: TELEPHONE AND CITY DIRECTORY LISTINGS

Canon: Former Canon 27

QUESTION

The Committee has received a request for amplification of "Professional Ethic-et #3" on Listings in Directories as published in the February 1968 issue of the New York State Bar Newsletter. Accordingly, the Committee states as follows:

OPINION

Although the listing of a lawyer's name in a classified directory is a form of advertising, the balancing of public interest against incidental publicity permits such listing. The following requirements indicate certain safeguards which must be observed to keep directory listings within the ethical bounds of Canons 27:

A. Telephone Directories

1. The listing must be under the general heading of "Lawyers" or "Attorneys-at-Law"

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Such limited headings afford the public a reasonable convenience in finding the name, address, or telephone number of an attorney or law firm already selected. It prohibits other classifications which result in advertising and is an attempt to become distinctive. Accordingly, a listing under the heading of "Patent Lawyer", or other similar heading, is unethical, solicits law business, advertises the lawyer's name in many locations, and is an attempt to become unduly distinctive.

2. 2. Boldface type is improper

The same style and type must be used for all lawyers and law firms, not only in the classified section but also in the alphabetical section.

3. 3. List only the attorney's name, address and telephone number

The lawyer's name may be listed only once in the classified section and once in the alphabetical section of a telephone directory. The firm name, if any, may also be listed separately, although a charge may be made for a firm name listing. The lawyer's home telephone number should appear under his individual alphabetical listing and not in the classified section. No telephone number for nights, Sundays, or holiday calls is proper. It is improper to include in your listing the names of clients, membership in any association, or any matter other than your address and telephone number.

B. B. City Directories and Organization Directories

There are important differences between a telephone directory and a city directory. A telephone directory is an adjunct to the business of selling telephone service while a city directory is a business within itself. A listing in a city directory or organizational directory is ethical only if:

- (a) It includes all lawyers residing in the community or organization.
- (b) No charge is made for the listing, except a charge may be paid for listing the firm name, if any, in addition to the individual listing without charge.
- (c) Under a general heading, as discussed in paragraph number 1.
- (d) No boldface type as discussed in paragraph number 2.

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- (e) List only the attorney's name, address and telephone number as discussed in paragraph number 3. However, an organizational directory may carry both home and office telephone numbers and addresses and the firm name, if any, but without payment for any such organizational directory listing.

The Committee seeks the continued cooperation of all companies and organizations in enforcing the foregoing requirements, but reminds all lawyers that the primary responsibility for conformity rests with the attorney.

Opinion #82 - 5/21/68 (3-68)

Topic: Conflict of Interests;  
Municipal attorneys.

Digest: Partners or associates  
defending criminal matters  
in county where one  
associate is part-time  
assistant district attorney.

Canons: *Former Canons 6, 37*

QUESTION

A salaried associate of a law firm who has no interest in the earnings of the firm has been appointed as a part-time Assistant District Attorney for which he receives a salary in which the firm has no interest. Does this preclude the partners and other associates of the law firm from handling criminal matters pending in the same county?

OPINION

In a closely-related question, we held in Opinion No. 40 - 12/22/66 (20-66) that it was not ethically proper for a lawyer to engage in the defense of traffic cases or minor misdemeanors before Justice's Courts in the same county in which the lawyer's law partner served on a part-time basis as an Assistant District Attorney. In the same Opinion, we pointed out that the relationship between partners and associates of a law firm is so close that no distinction could be made between them with respect to prohibited conflicts irrespective of whether the lawyer served with the firm on a full or part-time basis.

Accordingly, under these same principles, it is the opinion of this Committee that neither the partners nor associates of the firm may engage in criminal practice in the same county where one of the firm associates holds a position as Assistant District Attorney.