

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Opinion #65(a) - 1/29/70 (28-69) Topic: Conflict of Interest.
Sharing Office Space with Part-Time Judge.

Digest: Not improper to share office space with part-time judge, but improper to practice in judge's court.

Code*: Canon 9
Judicial Canons 9, 31

QUESTION

May attorneys sharing office space with a part-time or acting judge practise before that judge or any other judge of the same court?

OPINION

Such practice would not be proper. In Opinion No. 65 (1969) of this Committee it was held that law partners or associates of a part-time judge cannot properly practise in the court of which the judge is a member. This Committee is of the same opinion in the case of lawyers who are not partners or associates but who share office space with the judge. (See Canon 9.) The American Bar Association Professional Ethics Committee has reached the same conclusions in its informal opinions numbered 284, 855 (1965) and 995 (1967). See also ABA No. 104 (1934).

As we stated in our Opinion No. 29 (1966) "Public confidence in our courts and in the administration of justice depends not only on the avoidance of actual impropriety, but equally on the avoidance of the appearance of possible impropriety. A disappointed litigant must not be permitted to wonder whether he might have lost, not on the apparent weakness of his case, but rather because his opponent was represented by a partner or office associate of the [judge before whom the case is tried]." The same kind of possible doubts may arise where the relationship between the judge and opposing counsel is that of a space-sharer.

Opinion #66 - 1/8/68 (23-67) Topic: Writing for Lay Publication.

Digest: Lawyer may author articles of general legal information so long as he does not answer specific questions and does not appear to solicit.

Canon: Former Canons 27, 35, 40