

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Committee that a Justice of the Peace of a second class town may not serve on a county committee of a political party and that N.Y. State 137 (1970) applies to all persons holding judicial office.

The applicable Canons of Judicial Ethics are 4, 24 and 28.

Opinion #138 - 5/28/70 (5-70)

Topic: Letterhead:
LL.M Degree

Digest: Not permissible to use a designated specialty on firm letterhead where the specialty is based on a degree earned.

Code*: DR 2-102 (A) (6)
DR 2-102 (F)
DR 2-105 (A)
EC 2-9
EC 2-10
EC 2-14

QUESTION

Several attorneys in an office have earned Master degrees in Labor Law designated as "LL.M (in Labor Law)". They have asked whether this designation may appear on their letterhead.

OPINION

A lawyer may list any earned law degrees (LL.B; J.D.; LL.M; S.J.D.; or J.S.D.) following his name on letterheads. See N.Y. State 105 (a) (10/30/69). Any listing of law degrees earned must be accurate and dignified. See EC 2-10.

New York State has no provision for certification of a lawyer as a specialist in a particular field of law. EC 2-14 of the Code provides as follows: "In some instances a lawyer confines his practice to a particular field of law. In the absence of state controls to insure the existence of special competence, a lawyer should not be permitted to hold himself out as a specialist or as having training or ability, other than in the historically excepted fields of admiralty, trademarks and patent law."

The committee is of the opinion that the Codes does not permit a lawyer to hold himself out on his letterhead or cards, as a specialist in a particular field of law other than the three historically excepted fields. ABA 1131 (1970) is of the same opinion re "LL.M in taxation". The committee is also of the opinion that DR 2-102 (F) does not authorize the use of such designation.

Opinion #139 - 5/28/70 (16-70)

Topic: Conflict of interest;
Confidences and secrets
of client

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Digest: Attorney may accept professional employment in litigation in which a defendant is a former client where such employment does not require disclosure of confidential information obtained in course of former employment

Code*: Canon 4
EC 4-5
EC 4-6

QUESTION

An attorney had represented three brothers in a litigation involving title to a piece of realty owned by the brothers as tenants in common. The subject of the controversy was a net lease on the premises, an action to bar claims by possible distributees in the chain of title, the clearing of numerous objections to title and eventual sale of the premises. Upon completion of his services, the attorney made full and complete accounting to the brothers.

Four years later, one of the brothers died owning other parcels of real estate in common with his brothers unrelated to the former litigation. The estate of the decedent now wishes to retain the attorney to institute proceedings against the other brothers with regard to the other real estate held in common by them. May the attorney represent the estate in such proceeding?

OPINION

The Committee is of the opinion that it is proper for the attorney to represent the estate provided: (i) the subject matter of the prior litigation is totally unrelated to the proposed litigation; (ii) the new employment will not require the attorney to use confidential information obtained in his former litigation (ABA 165 (1936); EC 4-5, 4-6; also DRINKER, Legal Ethics, p. 109 and cases therein set forth); and (iii) the attorney's prior relationship with the brothers who are to be defendants in the proposed litigation was not such as to create an impression of professional disloyalty.

Opinion #140 - 5/28/70 (18-70)

Topic: Wills;
Draftsman as attorney for estate

Digest: Care should be taken to avoid appearance of impropriety in providing that draftsman be employed as attorney for estate

Code*: EC 5-6