

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinions

This Disciplinary Rule affirms the rule as found in Former Canon 27 and opinions which prohibit newspaper announcements of this nature. N.Y. State 83 (1968); N. Y. State 77 (1968); N. Y. County 311 (1933).

The fact that a bar association or other person might be the intermediary furnishing the newspaper such information cannot change the rule or the reasons therefor.

Opinion #203 - 10/26/71 (23-71)    Topic: Part-time judge

Digest: Partner and associate  
of a part-time judge  
have same prohibitions  
as the judge

Code\*: EC 9-2, 9-6

QUESTION

May a partner or an associate of a part-time judge practice law in a higher court in the same community?

OPINION

The relations of partners in a law firm are such that neither the firm nor any member or associate thereof may accept any professional employment which any member of the firm cannot properly accept. ABA 296 (1959); N.Y. State 199 (1971).

N.Y. State 146 (1970); N.Y. State 146(a) (1970); N.Y. State 150 (1970) and N.Y. State 181 (1971) all place limitations on the practice of part-time judges. These restrictions apply to a part-time judge's partners and associates. See, EC 9-2; EC 9-6.

Opinion #204 - 10/26/71 (37-71)    Topic: Authorship by Attorney of  
Educational Legal Cassette

Digest: Attorney may participate in  
a legal educational series  
commercially sponsored

Code\*: EC 2-2  
DR 2-101(B) (5); 2-105(A) (1);  
2-105(A) (4)

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QUESTION

May an attorney be retained by a corporation to prepare a series of cassette tapes on legal subjects where the corporation sponsors seminars, presents in-house programs and publishes books and cassettes relating to aspects of corporate management including a cassette series devoted to "business law for corporate executives" designed to assist management in identifying situations in which legal assistance is required?

OPINION

EC 2-2 provides:

"The legal profession should assist laymen to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers acting under proper auspices should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal problems that frequently arise. Such educational programs should be motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers. Examples of permissible activities include preparation of institutional advertisements and professional articles for lay publications and participation in seminars, lectures, and civic programs. But a lawyer who participates in such activities should shun personal publicity."

DR 2-101(B) (5) permits a limited and dignified identification of a lawyer as a lawyer as well as by name in and on legal textbooks, treatises, and other legal publications, and in dignified advertisements thereof. There appears to be no reason to exclude a cassette treating a legal subject for educational purposes from being considered as a "treatise" or a "legal publication". Accordingly, it would not be improper for a lawyer to accept employment to author such a cassette provided that the preparation and use thereof by a responsible sponsor conform to proper standards.

Neither the cassettes nor any advertisement thereof, any material supplied in connection therewith, nor any sales effort may contain any laudatory statement regarding the attorney, his partners, his associates, or his firm. Nor should he be designated as a specialist, or as limiting his practice. Only the lawyer's name and the fact that he is a lawyer may be given. The sponsor should agree to comply with these restrictions.

ABA Inf. 1179 (1971) finds nothing unethical in lawyers participating in an educational program on "Uses of Life Insurance in Estate Planning" being prepared under the auspices of the American Law Institute and the American Bar Association to be exhibited on the National Educational Television network, if "appropriate restrictions", similar to those above stated, are met. The opinion also holds that the fact of commercial sponsorship does not in and of itself make the participation of lawyers improper. See also, ABA Inf. 230(g) (1961); ABA Inf. 1094 (1969); ABA Inf. 1136 (1969); N.Y. State 89 (1968); N.Y. State 190 (1971); N.Y. County 516 (1963); N.Y. City 668 (1944).