

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinions

QUESTION

May one associate of a law firm hold office as a town justice in a town within a county where another associate of the same firm is an assistant district attorney as long as the latter person never appears in said town?

OPINION

In N.Y. State 118(1969) it was held that it would be improper for a village police judge to sit in judgment on criminal matters in a jurisdiction where his partner is an assistant district attorney, stating:

"The district attorney's office is comparable to a legal partnership. Such a partnership, through the particular assistant district attorney, is (indirectly) associated with the judge of the village court. The district attorney and his assistants are therefore ethically prohibited from prosecuting any criminal case before this village court...."

The decision would be the same if the assistant district attorney and the judge were not partners, but merely office associates or employees of the same firm. ABA A-284. As stated in ABA 104 (1934):

"A and B, however, are not co-partners....but the public, knowing of their intimate relation as office associates, may infer that there is some influence operating in their establishment.....Lawyers should not conduct themselves in such a way as to impair the confidence which the community have in the administration of justice."

If the justice of the peace and the assistant district attorney were office associates, the justice of the peace would be disqualified from presiding in any case in which the district attorney or any of his assistants appeared. Judicial Canon 4, 13, 26; Canon 9. Accordingly, it would not be proper in a town which is within a county where his office associate is district attorney, for a lawyer to accept the position of justice of the peace.

Opinion #215 - 11/22/71 (49-71)

Topic: Attorney circularizing other attorneys.

Digest: Within proper limits an attorney may send a dignified letter to other attorneys stating that he specializes in a particular branch of law and is available to act as a consultant.

Code*: DR 2-105(A) (3)

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QUESTION

Would it be proper for a lawyer to mail to other lawyers, whose clients may be involved in collective bargaining negotiations, a dignified personal letter stating that he is an attorney specializing in labor relations law and announcing that his services are available "of counsel" to render advice in the field of collective bargaining?

OPINION

DR 2-105(A) (3) provides:

"A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience. The announcement shall not be distributed to lawyers more frequently than once in a calendar year, but it may be published periodically in legal journals".

Accordingly, the suggested letter may be used within the proper limits as specified in the disciplinary rule. Cf. N.Y. State 195 (1971).

Opinion #216 - 12/20/71 (50-71)

Topic: Newspaper Advertisements
Seeking Funds for Clients

Digest: An attorney may not advertise his name for money to be invested by clients.

Code*: DR 2-101(B);
Canon 1, 9

QUESTION

May an attorney place an advertisement in a newspaper for venture capital for clients requesting that inquiries be directed to the attorney identifying the attorney individually or as an attorney?

OPINION

An attorney may not advertise his name for money to be invested by his clients. N.Y. City 414 (1937). Any business thus secured would necessarily inure to the lawyer's benefit. There is no reason why the lawyer should do the advertising. It is not a lawyer's function to promote a client's business.