



Committee on Professional Ethics

Opinion #255 - 6/26/72 (39-72)

Topic: Signing of letters on lawyer's letterhead by paralegal employee.

Digest: A paralegal employee may sign letters on the lawyer's letterhead when he is clearly designated as a non-lawyer.

Code*: Canon 3; EC 3-6.

QUESTION

May a paralegal employee sign letters on his lawyer-employer's letterhead, and if so, how may such letters be signed?

OPINION

A paralegal employee may be defined as a lay person employed by a lawyer to perform certain law office functions for which legal training and bar admission are not necessary.

The use of paralegal employees in a law office is not new. The lawyer while learning his law through working in a law office is a paralegal employee. See, N.Y. State 44 (1967). A lawyer's secretary can be a paralegal employee.

The practice has taken on a new dimension today with the increasing employment of other lay persons as paralegal employees. ABA 316 (1967). The American Bar Association has formed a Special Committee on Legal Assistants. Numerous articles are being written on the subject and several institutes for paralegal training are already in operation. N.Y. State Bar Journal (October 1971). It is proper for such person to use a business card designating him as a non-lawyer employee of the law firm. ABA Inf. 909 (1966); ABA Inf. 1185 (1971).

It is assumed that the work of the paralegal employee will be proper within the limits prescribed by law. ABA Inf. 909 (1966); EC 3-6. The latter provides:

"A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently."

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In the light of this developing practice and the recognition being given to it, and to achieve the efficiency at which the practice is aimed, within the limits of his permitted duties, it is not improper for a paralegal employee to sign appropriate letters on his employer's letterhead.

The signature should be followed by an appropriate designation so that there can be no connotation that the person so signing is a lawyer. ABA Inf. 909 (1966) has approved the designation "Investigator" and "Photographer" on a business card. ABA Inf. 1185 (1971) finds that the term "Legal Assistant" appears to be coming into general use as connoting a lay assistant to a lawyer.

The use of these terms for the purpose of such letters are approved within the guidelines set forth in ABA 316 (1967):

"A lawyer can employ lay secretaries, lay investigators, lay detectives, lay researchers, accountants, lay scribes, nonlawyer draftsmen or nonlawyer researchers. In fact, he may employ nonlawyers to do any tasks for him except counsel clients about law matters, engage directly in the practice of law, appear in court or appear in formal proceedings a part of the judicial process, so long as it is he who takes the work and vouches for it to the client and becomes responsible for it to the client. In other words, we do not limit the kind of assistants the lawyer can acquire in any way to persons who are admitted to the Bar, so long as the nonlawyers do not do things that lawyers may not do or do the things that lawyers only may do.

"The Canons of Ethics do not examine into the method by which such persons are remunerated by the lawyer, except in one respect. They may be paid a salary, a per diem charge, a flat fee, a contract price, etc. They may not, however, not being lawyers, share in a division of the fee of the lawyer. Canon 34. Only lawyers may share in such a division of fees..."
