



Committee on Professional Ethics

Opinion #319 - 12/18/73 (49-73) Topic: Advertisement soliciting merger with law firm or attorney

Digest: Law firm may not advertise in legal publication for "merger" with retirement-minded attorney or with attorney having overflow work.

Code: EC 2-9;
DR 2-102(A)

QUESTION

May a lawyer place an advertisement in a journal, principally subscribed to by attorneys, seeking a "merger" with a retirement-minded attorney with significant practice or sole practitioner or small firm who wishes to reduce their work load?

OPINION

It has frequently been held that an attorney may properly advertise for or seek, in a dignified manner, a full-time position as counsel for a corporation, or a full or part-time position with a law firm, but the advertisement should not disclose the attorney's name. ABA 244 (1942); ABA Inf. 695 (1963); ABA Inf. 711 (1964); ABA Inf. 725 (1964); ABA Inf. 808 (1964); N.Y. City 245 (1932); N.Y. City 705 (1947); N.Y. County 373 (1945). See also, N.Y. State 277 (1972); Drinker, Legal Ethics 220 (1953); EC 2-9; DR 2-102(A). In similar manner, there is no professional impropriety in an attorney or law firm placing a dignified advertisement in a proper publication, such as a law journal or similar legal publication principally subscribed to by attorneys, seeking a partnership association or "merger". N.Y. City 565 (1941). An advertisement should not, however, suggest that it is an offer to buy out another attorney's practice. An attorney's practice and good will are not a vendible commodity; it is, accordingly, improper to advertise to offer to buy or sell a law practice. ABA 266 (1945); ABA Inf. 507 (1962); ABA Inf. 550 (1962); N.Y. State 48 (1967); N.Y. City 272 (1933); N.Y. City 588 (1941); N.Y. City 755 (1950); Drinker, Legal Ethics 161, 189 (1953).

Accordingly, the proposed advertisement is improper as it suggests that the advertiser is seeking to buy out the legal practice of another attorney.
