



Committee on Professional Ethics

Opinion #375 - 3/26/75 (57-74)

Topic: Advice on foreign law.

Digest: Not improper to advise on foreign law if competent to do so.

Code: EC 3-9; 6-3
DR 6-101(A)(1)

QUESTION

May a lawyer advise a client with respect to the law of a jurisdiction in which he is not admitted to practice?

OPINION

If competent so to do and not prohibited by law, it is not improper for a lawyer to give advice on the law of a state or jurisdiction in which he is not admitted to practice. N.Y. State 108 (1969); ABA 248 (1942); Drinker, Legal Ethics 68 (1953); cf. EC 3-9.

The provisions of EC 6-3 should be kept in mind which state in pertinent part that "a lawyer generally should not accept employment in any area of the law in which he is not qualified. However, he may accept such employment if in good faith he expects to become qualified through study and investigation, as long as such preparation would not result in unreasonable delay or expense to his client".

DR 6-101(A)(1) provides that a "lawyer shall not [h]andle a legal matter which he knows or should know that he is not competent to handle, without associating with him a lawyer who is competent to handle it".

Finally, attention is invited to the holding of Degen v. Steinbrink, 202 App.Div. 477, 481, 195 N.Y. Supp 810, 814 (1st Dept 1922) aff'd, 236 N.Y. 669 (1923) and kindred cases to the effect:

"When a lawyer undertakes to prepare papers to be filed in a State foreign to his place of practice, it is his duty, if he has no knowledge of the statutes, to inform himself for, like any artisan, by undertaking the work, he represents that he is capable of performing it in a skillful manner. Not to do so and to prepare documents that have no legal potency, by reason of their lack of compliance with simple statutory requirements is such a negligent discharge of his duty to his client as should render him liable for loss sustained by reason of such negligence."

See also, Matter of New York County Lawyers' Assn, [Roel], 3 N.Y. 2d 224, 232 (1957).
