



New York State Bar Association
Committee on Professional Ethics

Opinion 948 (12/3/12)

Topic: Firm names; advertising

Digest: Law firm name may not include a lawyer’s initials conjoined with an abbreviation of the lawyer’s surname. Firm name may not include the phrase “The Business Dispute Clinic,” but use of the phrase as a motto separate from the firm name may be permissible.

Rules: 7.1, 7.5(b)

FACTS

1. An individual lawyer who is growing her practice seeks to change her firm’s name. The lawyer’s surname is hyphenated, as in “Ann Bonnie-Doe” (not her real name), and she seeks to use the name “AbDoe Law, The Business Dispute Clinic.”

QUESTION

2. May a lawyer ethically practice under a firm name that consists of a combination of (a) the lawyer’s first initial, and the first initial and second name of a hyphenated surname, all conjoined, plus (b) the word “Law,” plus (c) the motto “The Business Dispute Clinic”?

OPINION

3. Rule 7.5(b) contains (subject to exceptions not applicable here) three prohibitions on firm names:

“A lawyer in private practice shall not practice under [1] a trade name, [2] a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or [3] a firm name containing names other than those of one or more of the lawyers in the firm”

While “trade name” is not defined by the Rules, there are opinions that provide guidance. “The prohibition against trade names is broad, permitting use of little beyond the names of lawyers presently or previously associated with the firm.” N.Y. State 869 (2011) (firm name may not include practice area); *see* N.Y. State 920 (2012) (firm name may not consist only of lawyer’s initials); N.Y. State 861 (2011) (firm name may not include initials of practice areas); N.Y. State 740 (2001) (arbitrary letter may not be used as or appended to firm name, because trade names

are prohibited even if not misleading as to identity of lawyers in the firm); N.Y. County 677 (1990) (firm name may not include first name of one partner and contraction of surname of another partner, as such a name would violate requirement that lawyers practice only under names of lawyers in the firm).

4. Some variations on names may deviate so slightly from the original as not to offend Rule 7.5(b). *See* N.Y State 872 (2011) (permissible to use English translation of foreign first name in informal communications, and on business cards and website, if not misleading and if compliant with statutes and court rules). Here, the first portion of the proposed firm name –the conjoined and abbreviated form AbDoe – deviates more substantially from the lawyer’s actual name, and in that respect is similar to firm names found impermissible in opinions cited above. A firm name starting with AbDoe would therefore constitute a prohibited trade name.

5. The last portion of the proposed firm name – the phrase “The Business Dispute Clinic” – is also impermissible. Rule 7.5(b) permits a firm name to include the term “legal clinic” if the name of a participating lawyer or firm is incorporated therein, and it allows certain other similar terms to be used by a qualified legal assistance organization. The inquiring lawyer’s firm, however, is not such an organization, and in any event, the provisions in question do not authorize the use of other terms such as “The Business Dispute Clinic.”

6. However, advertising that includes “The Business Dispute Clinic” as a motto *in addition to* a proper firm name may be permissible. When a lawyer used the phrase “The Country Lawyer” as a motto in advertising, following his name, the Court of Appeals held that the phrase was neither a trade name nor deceptive. *In re Von Wiegen*, 63 N.Y.2d 163, 176-77 (1984). Under Rule 7.1(a)(1), however, advertising may not be misleading. Accordingly, the motto would be impermissible if, for example, the firm lacked competence or willingness to address business disputes.

CONCLUSION

7. A law firm name may not include a variant on the lawyer’s name that is created by conjoining the lawyer’s initials with an abbreviation of the lawyer’s surname. Nor may the firm name include the phrase “The Business Dispute Clinic,” although use of such a phrase as a motto accompanying a proper firm name may be permissible advertising if not misleading.

(38-12)