



NEW YORK STATE BAR ASSOCIATION

Committee on Professional Ethics

Inquiry No. 1167 (05/09/2019)

Topic: Law Firm Name: Use of Multiple Surnames

Digest: A lawyer who practices under the lawyer’s full surname name may use a law firm name that omits a first name and includes only the lawyer’s middle name and last name.

Rules: Rule 7.5(b)

FACTS

1. The inquirer, a New York sole practitioner whose full legal name we will call “Charlotte Moretti Jones,” is forming a new law firm and wants to know whether the firm may be called “Moretti Jones, PC.” The inquirer recently changed the inquirer’s surname to include the name of a spouse. Nevertheless, the inquirer’s concern is that, because the inquirer’s middle name sounds like a surname, the public may mistakenly conclude that Moretti and Jones are two different lawyers.

QUESTION

2. May a lawyer practice under a law firm name that includes only the lawyer’s surname includes a name that is a common last name?

OPINION

3. Rule 7.5(b) of the New York Rules of Professional Conduct (the “Rules”) provides, with certain narrow exceptions, that a “lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm.” As we have often remarked, the purpose of this rule is to protect the public from being deceived about the identity or status of those who use the firm name. *See, e.g.,* N.Y. State 1003 (2014).

4. In N.Y. State 740 (2001), the Committee opined that “[u]sing a name that is not the legal name of one or more partners or former partners in the law firm constitutes [the] use of a trade name” within the meaning of Rule 7.5(b). Applying this interpretation of the rule to the inquiry at issue, the Committee concluded that a lawyer could not insert the letter A before the firm name to insure favorable placement in the Yellow Pages.

5. The Committee has, however, determined that not all minor name variations violate Rule 7.5(b). Thus, in N.Y. State 1003 (2014), the Committee opined that the inquirer could use a firm

name that omitted the lawyer's first name but contained the inquirer's full surname and the initials of two middle names without running afoul of Rule 7.5(b). The Committee concluded that such minimal variation is acceptable as long as the proposed firm name is not misleading about the identity of the lawyer practicing under such name.

6. Applying these principles to the current inquiry, we conclude that the inquirer's proposed firm name does not violate Rule 7.5(b). For purposes of the Rule, no material difference exists between using a firm name that is comprised of a middle name and a last name and using a firm name that is comprised of middle initials and a last name. The inquirer's concern that the public might conclude that the firm's name is the last name of an additional partner because it happens to be a name that is commonly a last name is a concern too amorphous to affect our application of Rule 7.5(b). We live in a country (unlike some other countries) that does not impose blanket limitations on given names, and it is not uncommon for names that are more traditionally last names to be used as given names. In light of this facts, the public cannot reasonably assume that a particular name is a given name or a last name. Accordingly, we do not view the inquirer's proposed use of the firm name "Moretti Jones, PC" as "misleading" about the identity of the lawyer within the meaning of Rule 7.5(b).

7. We note the difference between this inquiry and the one we resolved in N.Y. State 1152 (2018). There, we concluded that the use of only a lawyer's first name as the name of the firm – as opposed to its use in advertising or branding – was impermissible. We reasoned that Rule 7.5(b) "embeds an understanding that a law firm's name consists of the surnames of lawyers who either practice there or once did." *Id.* ¶ 6. Here, by contrast, the inquirer's proposed firm name is the inquirer's actual surname, whether as a spousal name or a middle one coupled with an actual one.

CONCLUSION

8. A lawyer who practices under the lawyer's full surname may use a law firm name that includes only the lawyer's middle name and last name, without including the lawyer's first name.

(05-19)