It would, of course, not be improper for an attorney who does not represent a child's parents to be retained by a guardian ad litem to institute action against the parents, even though the guardian ad litem was appointed upon application of the parents, so long as there is no collusion or conspiracy to mulct the insurance company. This is distinguishable from a case where an attorney is retained at the instance of an insured car owner to represent an injured party in an action against the insured, which has been disapproved as in violation of the Canons of Ethics. (N.Y.City 603).

In the circumstances described in the inquiry, the attorney should inform the parents that inasmuch as he was originally retained by them, he cannot represent their child in an action against them. If they refuse to agree to a substitution, he should apply to the Court to be relieved of the case.

Opinion #75 - 4/3/68 (1-68)

Topic: SOLICITATION.
Digest: MAY LEGAL AID SOCIETIES SEND LETTERS INFORMING INDIGENT CLIENTS THAT THERE IS PENDING AN EVICTION PROCEEDING AGAINST THEM.
Canon: Former Canon 27

QUESTION

The Legal Aid Society of Albany, Inc., has instituted a program involing Tenant Notification of Eviction Proceedings. Procedures were set up whereby the name and address of each respondent in a Summary Dispossess Proceeding filed in court are obtained together with "certain other information." Then, a form letter is sent to each tenant respondent "Notifying them that an eviction proceeding has been commenced; that there may be a good defense; suggesting that if the tenant wishes to defend, he consult an attorney; and if he cannot afford an attorney that he contact the Legal Aid Society of Albany."

The Committee is asked if the above procedures followed by the Legal Aid Society are consistent with the Canons of Ethics. An additional inquiry is made as to whether the Committee's answer would "differ if the address of respondents were screened to exclude those outside of the low income areas of the city."

OPINION

It is the opinion of the Committee that it would not be improper for the Legal Aid Society to send an appropriate form letter intended to achieve the purpose mentioned in the inquiry. It is, however, the opinion of the Committee that any reference to the fact that "there may be a good defense" should be deleted from the letter.

This inquiry involves an interpretation of Canon 27 concerning solicitation. It has been held in the past that Bar Associations may issue publications advising the layman of the importance of seeking legal advice (ABA 121, 179, Jacksonville Bar Association v. Wilson, 102 So. (2) 292, Fla. 1958). The main purpose of the anti-solicitation statute is to prevent commercialization of the legal profession. The practice

inquired about would not compromise this principle. In fact, the Bar, by permitting the Society to do this, would be aiding in the effort to provide legal services to the disadvantaged. (See 41 Notre Dame Lawyer 961).

The Committee believes that letters of this type should be sent only to those who presumptively might be unable to pay for legal services. Hence the letters should be forwarded only to residences of low income areas.

Opinion #76 - 6/6/68 (25-67)

Modified by 416

Topic: *GROUP LEGAL SERVICES PROGRAMS*

Digest: *VALIDITY OF GROUP LEGAL SERVICE PROGRAMS UNDER RECENT UNITED STATES SUPREME COURT DECISIONS.*

Canons: *Former Canons 27, 35, 47*

QUESTION

Numerous inquiries have been made relating to the validity of various types of group legal service programs. Heretofore, Canons 27 and 35 have been widely interpreted as making it ethically improper for lawyers to organize or participate in most group legal service programs. The current inquiries stem from widespread uncertainty as to the continued validity of prior interpretations applicable to such programs in view of the recent decisions of the United States Supreme Court in United Mine Workers v. Illinois State Bar Association, 389 U.S. 217 (1967); Railroad Trainmen v. Virginia State Bar Association, 377 U.S. 1 (1964); and NAACP v. Button, 371 U.S. 415 (1963).

The Mine Workers case sustained the employment of a salaried attorney by a labor union to prosecute workmen's compensation claims for union members. The Trainmen case sustained a referral plan under which union members with personal injury claims arising out of their employment were advised to consult specific lawyers who had agreed with the union to handle such cases at specific rates. The NAACP case permitted that organization to provide the services of staff lawyers to members and to others in litigation involving racial discrimination.

OPINION

Our Committee recognizes that substantial uncertainties have been created by these Supreme Court decisions as to the extent to which group legal services programs, previously held to be ethically improper, should now be permitted. These decisions, togehter with the growing movement to provide adequate legal service to the disadvantaged, have led bar associations throughout the country to begin to restudy the desirability of amending Canons 27 and 35 so as to permit the possible approval of certain appropriately organized group legal service programs. Under the present doubtful state of the law, and in the absence of amendments to Canons 27 and 35, we are not prepared to approve programs not clearly covered by the three cases cited above.