

**NEW YORK STATE BAR ASSOCIATION**  
**Professional Ethics Committee Opinion**

"(4) engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his judicial duties."

Opinion #40 - 12/22/66 (20-66) Topic: Conflict of Interest.  
Partner of Part-Time Dist. Atty.

Digest: Partner of part-time Asst. Dist.  
Attorney may not appear in defense  
of clients in traffic or mis-  
demeanor cases in same county  
where partner is Asst. Dist. Atty.

Canon: Former Canon 6

QUESTION

Is it proper for a lawyer to engage in the defense of traffic cases and minor misdemeanors before the Justice's Courts and before the Courts of Special Sessions in the same County in which his law partner serves on a part-time basis as an Assistant District Attorney engaged only in the prosecution of criminal matters in the County Court?

OPINION

Under Canon 6 attorneys may not represent conflicting interests without the consent of the clients after full disclosure and understanding by the clients of the consequences. The relationship between partners of a law firm is so close that the firm and all members thereof are precluded from accepting employment from which any one member is barred. ABA Opinions Nos. 33, 49, 50, 72, 103, 296 and ABA Informal Opinion 855. This is true irrespective of whether the lawyer involved serves the firm on a full or part-time basis. ABA Informal Opinion No. 674. Also, it is true irrespective of whether the lawyer is a partner or an associate of the law firm as both are engaged in carrying on the practice of the firm. ABA Opinion No. 306 and Informal Opinion No. 674.

Service by a lawyer in a public capacity carries the same restrictions as to conflict of interest as service for private clients. ABA Opinion No. 128.

In this case the Assistant District Attorney could not represent both the public interest and defendants being prosecuted by the District Attorney's office and his law partners and associates would also be precluded from doing so. ABA Opinion No. 142 and ABA Informal Opinion No. 284. No question of consent is involved because the public cannot give its consent to a conflict of interest. ABA Opinion No. 16.

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Attorneys should avoid not only impropriety but the appearance of impropriety as well. ABA Opinions Nos. 49 and 50.

Accordingly, it is the opinion of this Committee that the lawyer in question may not properly represent defendants in traffic or misdemeanor cases in the same county in which his partner is Assistant District Attorney.

Opinion #41 - 12/28/66 (14-66) Topic: Advertising.  
Letterhead of Lawyer Admitted to  
Overruled by 434 Practice in Two States.

Digest: Improper for letterhead to contain statement that lawyer is admitted to practice in another state.

Canon: None

QUESTION

Is it proper for an attorney who is admitted to practice both in Florida and in New York to use a letterhead reading as follows:

"SUITE----	Admitted
BUILDING ----- JOHN JONES	New York Bar
MIAMI, FLORIDA Attorney and Counsellor at Law	Florida Bar"

OPINION

In the opinion of the Committee, the proposed letterhead format is improper and in contravention of the Canons of Professional Ethics dealing with advertising and solicitation. The letterhead of a New York lawyer may not contain a statement that he is admitted in another state. Such a statement does not serve the same proper professional purpose as the listing of an office address in another state from which the lawyer performs professional services. (See Informal Opinion No. 821, January 22, 1965, Committee on Professional Ethics, American Bar Association; DRINKER, LEGAL ETHICS, p. 229).

Opinion #42 - 1/18/67 (15-66) Topic: Advertising.  
Notice of Mexican Divorce Service.

Digest: Lawyer's announcement of specialty in Mexican divorces is improper even if mailed only to other attorneys.

Canon: Former Canons 27, 42