

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Opinion #101(a) - 12/5/69 (27-69)

Topic: Direct communication with
adverse party

Digest: Lawyer trustee in bank-
ruptcy may cause orders
and formal notices to be
served directly on bank-
rupt.

Harmonizes #101

Canon: Former Canon 9

QUESTION

May a lawyer trustee in bankruptcy cause orders and formal notices to be served directly on bankrupt instead of on bankrupt's attorney alone?

OPINION

The Committee's Opinion #101 held that a lawyer trustee in bankruptcy was a party adverse to the bankrupt and that it was improper for such trustee to bypass the attorney for the bankrupt.

It was not intended by that opinion to hold improper the direct service on the bankrupt of notices, orders of the court or other papers which are required by law or court order, to be served on the bankrupt personally. Copies of all such papers should also be delivered to the attorney for the bankrupt.

Opinion #102 - 5/2/69 (8-69)

Topic: Conflict of Interests

Digest: A Legal Aid Society
formerly representing a
wife in a matrimonial is
now requested to repre-
sent the husband.

Canon: Former Canon 6

QUESTION

May a Legal Aid Society who has been consulted by a wife with regard to a divorce and has been given advice, now be engaged by the husband who wishes to obtain the divorce no longer sought by the wife?

OPINION

The question involves Canon 6 which states in part that:

"The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed."

We understand that in the operation of a Legal Aid Society, it is common for the Society not only to bring an action but also to defend

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matters in the name of "The Legal Aid Society of _____", and for the attorneys employed by the Society to have access to the legal files of the Society. Accordingly, the organization is operated and viewed by the public in the nature of a legal partnership.

Accordingly, it is our opinion the principles applicable to present and former partners and associates of law partnership apply to Legal Aid societies and that such societies should not represent conflicting interests.

Opinion #103 - 6/10/69 (3-69)

Topic: Charitable gifts as indirect advertising
Digest: Law firm name may appear on a plaque in a law school where firm makes contribution to law school's building fund.
Canon: Former Canon 27

QUESTION

May a law school recognize law firm donors to a law school building fund by the use of commemorative plaques which would read: "The gift of Smith, Jones, Brown & Robinson, Attorneys at Law"?

OPINION

For many years it has been customary for leading law schools to solicit funds and to recognize in various ways those whose generosity has helped support the school, thereby contributing to improving the quality of legal education. Dignified recognition of donors and contributors to law schools has for many years been sanctioned by custom, as long as the form of recognition has conformed to professional standards and has not appeared to involve possible indirect solicitation of clients in violation of Canon 27.

In our opinion, a simple plaque identifying the donor of a particular facility which is placed on the door or wall of the facility would not be inappropriate, whether the donor is an individual or a law firm. Such a plaque could properly read: "Gift of John Doe" or "Gift of Smith, Jones, Brown & Robinson". In neither case, however, would it be appropriate to include a further identification of the donors as practicing lawyers, as would be the case if the plaque included the words "attorneys at law". Such a designation, by calling attention to the donor's profession would appear to violate Canon 27's prohibition against advertising and indirect solicitation.

Similar principles would apply to any publicity given to contributions by individual lawyers and law firms to legal aid organizations, bar associations, and similar law related organizations and charities. We recognize, however, that public recognition of law firm contributions to non-law related charities may be violative of Canon 27 as involving a form of indirect advertising. See e.g. ABA Inf. 633, which disapproves putting a law firm's name on a plaque in a hospital listing contributors to a hospital capital fund drive. Thus our opinion should not be read as expressing approval of public recognition for law firm contributions made to non-law related charities.