

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinions

The communications under consideration violate the provisions of DR 2-105 (A) (3) in several respects. Thus:

While matrimonial law generally may perhaps be considered a "particular branch of law or legal service", purported expertise in obtaining divorces in a particular jurisdiction does not fall within such category. Solicitation to obtain retainers to procure such divorces is therefore improper.

Although a "dignified announcement" is permitted, the announcement sent to lawyers must meet the same standard as an announcement published in legal journals. The letters under consideration fail to meet those standards. The quotation of legal fees, air fares, accommodations available, in one case special hotel rates for the attorney's clients, and the like, is undignified.

The letters fail to come within the exception as they suggest that the writers have special experience with the divorce laws of the foreign country and special competence to handle divorces therein because of prior arrangements that they have made with attorneys resident in, or members of the bar of, the foreign country.

Opinion #196 - 9/30/71 (30-71) Topic: Newspaper Publicity
Digest: Newspaper "releases" of attorney attending professional meeting improper
Code*: EC 2-2;
DR 2-101 (A)

QUESTION

May a lawyer attending a seminar, symposia convention, or other professional meeting release or cooperate in the furnishing of information as to his attendance to a newspaper?

OPINION

The question must be answered in the negative.

EC 2-2 provides:

"The legal profession should assist laymen to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers acting under proper auspices should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal problems that frequently arise. Such educational programs should be motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers. Examples of permissible activities include preparation of institutional advertisements and professional articles for lay publications and participation in seminars, lec-

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tures, and civic programs. But a lawyer who participates in such activities should shun personal publicity."

DR 2-101 (A) provides:

"A lawyer shall not prepare, cause to be prepared, use, or participate in the use, of any form of public communication that contains professionally self-laudatory statements calculated to attract lay clients; as used herein, 'public communication' includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, magazine, or book."

Past opinions permitting a release do not conflict with EC 2-2 as they concern the lawyer who is a major participant in the seminar or other activity and who would otherwise "shun personal publicity", but who may permit his name to be used if "motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers." ABA Inf. 840 (1965); ABA Inf. 1135 (1970).

An attorney may not promote, inspire, or encourage a newspaper to publish a report regarding his individual attendance at a conference or symposium on a particular field of law, emphasizing the name of the lawyer, the importance of the field of law and the importance of skill in such field. N.Y. State 100 (1969)

The Code did not change Matter of Connelly, 18 A.D. 2d 466, 478, 240 N.Y.S. 2d 126, 138, (1st Dept. 1963) which stated in part:

"There can be no justification for the participation and acquiescence by an attorney in the development and publication of an article which, on its face, plainly amounts to a self-interest and unethical presentation of his achievements and capabilities.... What is wrong is for the lawyer to augment by artificial stimulus the publicity normally resulting from what he does, seeing to it that his successes are broadcast and magnified."

Opinion #197 - 9/30/71 (31-71)

Topic: Non-lawyer Town Justice;
Candidacy for other Elective
Office.

Digest: A Non-lawyer Justice of the Peace
may not seek other elective
office without first resigning
as Justice of Peace.

Canons of Judicial Ethics: 30.