

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinions

- "(2) In public notices when the name and profession of a lawyer are required or authorized by law or are reasonably pertinent for a purpose other than the attraction of potential clients.
- "(3) In routine reports and announcements of a bona fide business, civic, professional, or political organization in which he serves as a director or officer."

Subparagraph "(2)" imposes certain specific restrictions on the identification of lawyers in "public notices" which are not stated in Subparagraph "(3)" with respect to "routine reports and announcements". Whether or not the identification of a lawyer is "required or authorized by law", as mentioned in Subparagraph "(2)", is a question of law upon which this Committee does not pass. The determination as to whether or not it is "reasonably pertinent for a purpose other than the attraction of potential clients" so as to warrant such publication depends upon the facts of each case. Public identification of a lawyer may be proper in connection with the certification of the validity of a municipal bond issue. ABA 290 (1956). It may be included in a published notice of the formation of a bondholders' protective committee. ABA 100 (1933). It may be stated on legal notices required to be published in connection with legal proceedings. ABA 299 (1961). In each of these cases the identification of the lawyer is of importance not only to the client but to third parties who may be affected.

However, the naming of counsel for a corporation or association in its statement of condition published in a newspaper of general circulation would not normally accomplish any purpose of importance either to the corporation or the general public. Its inclusion in a public notice would not be proper. See ABA Inf 645 (1963); ABA Inf 645 (a) (1963); ABA Inf 839 (1965). Of course, as stated in the cited opinions, if a lawyer is a full time employee of the corporation or association no question of advertising is involved and the restriction would not apply in his case. The opinions cited also make an exception with respect to those directors of a corporation who are lawyers. Where it is the practice of a corporation in listing its directors in a newspaper to identify each of them by his principal occupation, it is not improper for a lawyer-director to be identified by his profession or the name of his firm.

Apart from the question of good taste, and the obligation imposed by Canon 9 to avoid even the appearance of impropriety, it would be incumbent upon a lawyer who permits his name and profession to be advertised in the public media to show that his conduct is permissible within the exceptions provided in the Disciplinary Rules.

Opinion #202 - 9/30/71 (36-71) Topic: Announcements in Newspaper
Digest: Announcements of changes within a law firm may not be released to the press
Code*: EC 2-9;
DR 2-102 (A) (1), (2)

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QUESTION

May an attorney or bar association furnish a newspaper of general circulation a release or advertisement with information concerning a new firm name, new partner, new address or telephone?

OPINION

Such conduct is not permitted.

EC 2-9 states in part:

"...The traditional ban against advertising by lawyers...is rooted in the public interest...History has demonstrated that public confidence in the legal system is best preserved by strict, self-imposed controls over, rather than by unlimited, advertising."

DR 2-102 (A) states:

"A lawyer or law firm shall not use professional cards, professional announcement cards, office signs, letterheads, telephone directory listings, law lists, legal directory listings, or similar professional notices or devices, except that the following may be used if they are in dignified form:
(1) A professional card of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm and any information permitted under DR 2-105.

A professional card of a law firm may also give the names of members and associates. Such cards may be used for identification but may not be published in periodicals, magazines, newspapers, or other media.
(2) A brief professional announcement card stating new or changed associations or addresses, change of firm name, or similar matters pertaining to the professional office of a lawyer or law firm, which may be mailed to lawyers, clients, former clients, personal friends, and relatives. It shall not state biographical data except to the extent reasonably necessary to identify the lawyer or to explain the change in his association, but it may state the immediate past position of the lawyer. It may give the names and dates of predecessor firms in a continuing line of succession. It shall not state the nature of the practice except as permitted under DR 2-105."

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This Disciplinary Rule affirms the rule as found in Former Canon 27 and opinions which prohibit newspaper announcements of this nature. N.Y. State 83 (1968); N. Y. State 77 (1968); N. Y. County 311 (1933).

The fact that a bar association or other person might be the intermediary furnishing the newspaper such information cannot change the rule or the reasons therefor.

Opinion #203 - 10/26/71 (23-71) Topic: Part-time judge

Digest: Partner and associate
of a part-time judge
have same prohibitions
as the judge

Code*: EC 9-2, 9-6

QUESTION

May a partner or an associate of a part-time judge practice law in a higher court in the same community?

OPINION

The relations of partners in a law firm are such that neither the firm nor any member or associate thereof may accept any professional employment which any member of the firm cannot properly accept. ABA 296 (1959); N.Y. State 199 (1971).

N.Y. State 146 (1970); N.Y. State 146(a) (1970); N.Y. State 150 (1970) and N.Y. State 181 (1971) all place limitations on the practice of part-time judges. These restrictions apply to a part-time judge's partners and associates. See, EC 9-2; EC 9-6.

Opinion #204 - 10/26/71 (37-71) Topic: Authorship by Attorney of
Educational Legal Cassette

Digest: Attorney may participate in
a legal educational series
commercially sponsored

Code*: EC 2-2
DR 2-101(B) (5); 2-105(A) (1);
2-105(A) (4)