



## Committee on Professional Ethics

Opinion #301 - 9/12/73 (28-73)

Topic: Judicial candidates;  
Use of official title in  
campaign advertisements.

Digest: Assistant District Attorney  
campaigning for judge may  
use official title in news-  
paper, billboards and signs.

Code: EC 7-13

Code of Judicial Conduct: Canon 7(B)(1)

### QUESTION

May an assistant district attorney who is a candidate for judicial office advertise in local newspapers, on billboards and other signs as follows: "Elect Assistant District Attorney X for Judge of the Civil Court"?

### OPINION

It is not improper for an assistant district attorney who is campaigning for election to judicial office to publish his official title in a dignified manner immediately preceding or following his name in advertisements of the type described in the inquiry.

The Code of Judicial Conduct provides in Canon 7(B)(1) that "A candidate, including an incumbent judge, for a judicial office... should maintain the dignity appropriate to judicial office..." N.Y.State 289 (1973) and N.Y.City 882 (1973), announced certain guidelines applicable to campaigns of candidates for judicial office. Guidelines C(5) of those opinions provides:

"Use of Power or Prestige of Judicial Office to Promote Candidacy. The campaign material of an incumbent judge should not arouse reasonable suspicion that he is using the power or prestige of his judicial office to promote his candidacy. Thus, for example, an incumbent judge should take no judicial action which is calculated to obtain support for his candidacy. Similarly, while a candidate's past or present position as a judge is clearly relevant to his qualifications, an incumbent judge takes unfair advantage of his judicial position if any campaign material shows him in court or in his judicial robes."

Guideline D(1) provides:

"Use of Term 'Judge'. Nothing contained in these guidelines should be construed to prohibit an incumbent judge who is a candidate from using the word 'judge' or 'justice' (as may be appropriate) as a title or as a description of his present office."

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A prosecuting attorney, as representative of the sovereign and having the duty to seek justice (EC 7-13), has some of the attributes of a judge, and his position clearly is relevant to his qualifications for judgeship. The inclusion of his title in campaign advertisements, which in the case of a judge are sanctioned by guidelines D(1), should also be permitted to him.

As in the case of a judge it would, of course, be grossly improper for an assistant district attorney to use the official letterhead of the district attorney or any letterhead containing his own official title or to sign letters over his official title for campaign purposes.

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