



Committee on Professional Ethics

Opinion #331 - 3/21/74 (4-74)

Topic: Announcement; Limitation of Practice

Digest: Announcement of availability in practice of labor law representing management permissible upon certain conditions

Code: DR 2-105(A)(3)

QUESTION

May a lawyer send an announcement to other lawyers only reciting the relocation of his law office and that he is available to the Bar in the practice of "Labor Law Representing Management"?

OPINION

DR 2-105 provides:

"(A) A lawyer shall not hold himself out publicly as a specialist or as limiting his practice, except as permitted under DR 2-102(A)(6) or as follows:

"(3) A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience. The announcement shall not be distributed to lawyers more frequently than once in a calendar year, but it may be published periodically in legal journals."

DR 2-102(A)(6) relates to law lists and legal directories, and is not determinative on this inquiry.

DR 2-105(A)(3) was considered in N.Y. County 619 (1974) where it was stated:

"The Disciplinary Rule sanctions the publication to the profession of a notice that a lawyer is available to assist other lawyers, not only in a particular branch of law, but also to render a particular legal service, even though not a specialty which could be noticed generally. N.Y. City 877 (1971); see under Former Canon 46: N.Y. County 561 (1968), 537 (1964); N.Y. State 86 (1968). Such areas of practice as those involving proceedings before or in connection with actions taken by governmental agencies or authorities constitute a particular legal service, available to other lawyers only, within the meaning of the above Disciplinary Rule. Compare ABA 194 (1939)."

Examination of opinions under former Canon 46 shows a gradual liberalization as regards announcements sent to other members of the

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Bar only. Even under the former Canons it was held that labor law was a particular branch of the law and that an announcement sent to lawyers only that a firm engaged in the practice of Labor Relations Law was not improper. N.Y. State 86 (1968). It has become customary for lawyers who engage in labor law practice, especially those in metropolitan areas, to represent either labor or management exclusively, so that in effect such services, even though limited to one side of the labor issue, nevertheless constitutes practice "in a particular branch of law or legal service" within the meaning of DR 2-105(A)(3).

Accordingly, a notice that a lawyer is available to act as consultant or associate in that area of practice, addressed to other lawyers only, distributed not more frequently than once in a calendar year, and which does not contain a representation of special experience or competence, is permissible. To the extent that this opinion is inconsistent with N.Y. State 86 (1968), the latter is overruled.
