

Utah Ethics Opinions

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33. USB EAOO Opinion No. 33

Utah State Bar

Ethics Advisory Opinion No. 33

Approved December 30, 1976

Summary: A business card describing an attorney as "General Counsel" or "Counsel" is proper.

Facts: You have inquired into the propriety of a company business card which would identify your company attorneys as "General Counsel" or "Counsel."

Opinion: Canon 2 recognizes the right of an attorney to use a professional card identifying him by name and as a lawyer, his address and telephone number and the name of the firm he is with.

If the card you propose, using the format you have given us describes the attorney as "General Counsel", "Counsel" or some similar designation only, it would appear to be appropriate under the Canon.

It follows, of course, that none of you may appear in a civil case in opposition to each other, regardless of the court involved.

This Committee has also held that it is improper for a pro-tem city judge to appear in that court to defend criminal matters in which he is not involved as judge. Opinion 26. We conclude that your sitting as a pro-tem justice of the peace in the N.L. court would also preclude your office associates from appearing in any criminal matters in the court, regardless of whether you are sitting in the matter.

You do not indicate the extent to which you practice civilly in the N.L. justice court. We believe, however, you would be precluded from appearing in that court in any proceedings by virtue of serving as pro-tem judge of the court. This holding conforms to ABA Formal Opinion 242 in which said:

"* * * One who assumes to act as a judge one day and as an advocate the next in the same judicial system is confronted with inherent difficulties that ought to be avoided and deprecates the employment of such a system."

This body has held that there is nothing inherently improper, however, with an attorney serving both as a

precinct justice of the peace and as a practicing attorney, so long as the attorney does not involve himself as an attorney with court matters at the court level. Utah Opinion 20.

The thread running through each of these situations is more the appearance of impropriety than the actual impropriety which might potentially arise.

We address ourselves to the remaining relationship of public defender and any limitations created by virtue of the interrelationship with the justice of the peace position and the city attorney, deputy city attorney office arrangement.

The potential conflicts appear to be such that you could not defend any county or state violations which arise in the N.L. court, nor could you sit as judge in those cases. We conclude that the appearance of impropriety in you making the decision as to whether to judge or defend in a particular matter or determining whether you felt there was a conflict must preclude you from either.

As to state or county matters arising at other court levels, you would not be precluded.

Rule Cited:

Canon 2