Utah Ethics Opinions

1973.

13. USB EAOC Opinion No. 13

Ethics Advisory Opinion No. 13

Approved August 15, 1973

Summary: It is improper for a law firm to schedule a party for clients honoring significant anniversary dates.

Comments: This opinion may be modified by In re Utah State Bar Petition, 647 P.2d 991 (1982).

Facts: You have inquired concerning the ethical considerations involved in the following conduct:

Lawyers in your firm will be asked to note, when working with clients' files, the period of the particular lawyer-client relationship. If a significant anniversary, such as the tenth, twenty-fifth, or a fiftieth is approaching, a party will be scheduled by your firm for the client and publicity releases about the anniversary and the party will be delivered to various news media. Since your firm represents several news media, you expect that the publicity releases will be published and broadcast.

Opinion: Your letter makes reference to DR 2-101(A). We believe that rule is controlling in the circumstances you have described, and that the proposed course of action would be improper.

Canon 27 of the Canons of Ethics, the forerunner of the present Code of Professional Responsibility, of which DR 2-101(A) is a part, provided in part:

"It is unprofessional to solicit professional employment by circulars, advertisements, through touters or by personal communications or interviews not warranted by personal relations. Indirect advertisements for professional employment such as furnishing or inspiring newspaper comments, or procuring his photograph to be published in connection with causes in which the lawyer has been or is engaged or concerning the manner of their conduct, the magnitude of the interest involved, the importance of the lawyer's position, and all other like self-laudation, offend the traditions and lower the tone of our profession and are reprehensible; . . ."

Under Canon 27, the American Bar Association Committee on Professional Ethics has passed upon numerous types of situations wherein they have declared publicity to be improper.

In Informal Opinion 79, the Committee held it to be improper for a firm to acquiesce in the publication by a magazine of a laudatory history of the firm or to allow itself to be listed as counsel for a community charitable organization.

In Informal Opinion 479, it held it to be improper for an attorney to release a news item to a newspaper unsolicited.

Informal Opinion 529, held it to be improper to announce in a newspaper of general circulation: (a) the opening of a new law office; (b) the removal of a law office to a new location; (c) the addition of a new member to an existing law firm; or (d) the formulation of a new partnership.

Informal Opinion 552 holds it to be improper for an attorney to furnish material for a newspaper article on his activities as an attorney, nor could he agree to the publication of such an article.

Informal Opinion 562 holds it to be improper to furnish information to a newspaper of a change in office location.

In Informal Opinion 1052, the Committee held it to be improper for an attorney to cooperate with a reporter regarding his legal activities in connection with cases he has handled.

The thread running through all opinions is that a lawyer may not indirectly place himself before the public in a laudatory attitude, that to do so is improper.

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."

It is our judgment that the plan you have suggested carries with it the indirect laudation of your firm in every instance and to the extent that your firm is mentioned in connection with the tenth, twenty-fifth, fiftieth, or other anniversary this laudation would result.

We conclude that it would be improper.