
E-90-1 Law firm names: Independent lawyers

Question

How may independent lawyers or law firms hold themselves out to the public as being associated on an ongoing basis in the practice of law?

Opinion

If lawyers or law firms associate only for the purpose of sharing office space, equipment, library, personnel or other resources, such lawyers or law firms are prohibited from sharing the same letterhead. *See ABA/BNA Lawyers' Manual on Professional Conduct* § 81:3004 (1989). SCR 20:7.5(d) is directly on point: "Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact." The comment to SCR 20:7.5(d) states: "With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, 'Smith and Jones,' for that title suggests partnership in the practice of law."

Use of disclaimers following a listing of individual lawyer or law firm entities does not necessarily avoid violation of SCR 20:7.1 or SCR 20:7.4(d). *See generally Lawyers' Manual, supra*. We believe that it is unlikely that the public generally will consider or understand the significance to them of such disclaimers or that that significance will be candidly and consistently explained to prospective clients by lawyers holding themselves out in this manner. In sum, if lawyers want to appear to be a law firm, this committee believes that SCR 20:7.4(d) requires them to *be* a law firm. *See also generally Committee on Professional Ethics Formal Opinion E-86-2, "Office Sharing Arrangement"* (1986).

However, under appropriate circumstances, lawyers who are not partners, shareholders or employees in the same law firm, may hold themselves out as associated in an "of counsel" relationship, which means that such lawyers' names would not appear in the name of the law office; and law firms may hold themselves out as "affiliated with" or "associated with" other law firms, all in accord with the qualifications set forth in our *Committee on Professional Ethics*

Formal Opinion E-86-10, “Law Firm Designation as ‘Of Counsel’ to Another Law Firm” (1986).