

New York State Bar Association
Committee on Professional Ethics

Opinion 1028 (10/24/2014)

Topic: Firm Name, Letterhead, Business Cards

Digest:

- A. If two lawyers, X and Y, form a law firm that is a professional corporation, the law firm may not be called simply "X & Y". The firm name must contain "P.C."
- B. A law firm name need not expressly refer to the firm as a law office, e.g. "Law Offices of X & Y." It is sufficient that the firm is identified as "X & Y, P.C."
- C. On personal letterhead and business cards, it is sufficient to identify lawyers by their name (with or without "Esq.") without a designation of their position within the firm, e.g., "partner," "principal" or "associate."
- D. On firm letterhead that lists both partners and associates, a law firm must distinguish between partners and associates, such as by using a separating line or by listing partners and associates on different sides of the letterhead, because failure to do so would be misleading.

Rules: 7.1, 7.5(a) and (b).

QUESTION

1. The inquirer asks several questions:

- A. If two lawyers, X and Y, form a law firm that is a professional corporation, may the law firm be called "X & Y", or must the firm name contain "P.C."?
- B. Must the name of the firm on letterhead or business cards expressly refer to it as a law office, e.g. "Law Offices of X & Y," or is it sufficient that the firm is identified as "X & Y, P.C."?
- C. On personal letterhead and business cards, is it sufficient to identify lawyers by their name (with or without "Esq."), or must there also be a designation of the lawyers' position within the firm, e.g., "partner" or "associate"?
- D. On firm letterhead that lists all partners and associates, must there be a designation of the lawyers' position within the firm, e.g., "partner" or "associate"?

OPINION

Use of "P.C." by Professional Corporations

- 2. Rule 7.5(a) of the New York Rules of Professional Conduct (the "Rules") provides that a lawyer or law firm may use professional cards, office signs and letterheads, as long as they do not violate any statute or court rule and are in accordance with Rule 7.1. Rule 7.1(a)(1) prohibits a lawyer from using an advertisement that is false, deceptive or misleading.
- 3. Rule 7.5(b), in pertinent part, states that "the name of a professional corporation shall contain 'PC' or such symbols permitted by law, [and] the name of a limited liability company or partnership shall contain 'LLC,' or 'LLP' or such symbols permitted by law." Consequently, the name of a law firm organized as a professional corporation cannot be "X & Y," but must also include "P.C." or such symbols as may be permitted by law. See also N.Y. Bus. Corp. Law § 1515(b) ("The name of a professional service corporation shall end with the words 'Professional Corporation' or the

abbreviation 'P.C.'")

4. The purpose of this requirement is to avoid misleading prospective clients who may believe that a law firm is a partnership whose members are personally liable for the firm's debts, including those arising out of liability for malpractice, when the firm is in fact practicing as a professional corporation with more limited liability. Cf. D.C. Opinion 235 (1993).

Identification as a Law Office

5. No provision of the Rules specifically requires a law firm to be identified as "law offices," whether the firm is formed as a professional corporation, a partnership or another permitted form of organization. The question is governed by Rules 7.1 and 7.5. As noted above, Rule 7.1(a)(1) generally forbids deceptive and misleading advertisements, while Rule 7.5 sets forth certain standards for professional notices, letterheads and signs, including professional cards. Neither these nor other rules expressly require law firms to refer to themselves as "law offices" in their professional cards and letterheads. Nor is there any invariable tradition of including that phrase in firm names. While a law firm may wish to identify itself in its name or on its letterhead or business cards as a law office, in order to indicate to potential clients that the firm provides legal services, it is not required by the Rules or by applicable law to do so. Moreover, we do not believe that a law firm's failure to identify itself as a law firm in its name, on its letterhead and on professional cards is misleading. Ordinarily, the context in which the firm uses its name, its letterhead and its professional cards will indicate the nature of the firm's work.

Identification of Role of Lawyers

6. Rule 7.5(a)(1) and (4) authorize professional cards and letterheads to identify the lawyer "by name and as a lawyer." May a professional card or personalized letterhead identify only the firm name and the name of the lawyer, or must it also identify the lawyer as a lawyer, e.g., "lawyer," "Esquire" or a similar identifier, and/or include the designation of the lawyer's role within the firm, e.g. partner, principal, associate? We believe that both a professional card and personal letterhead may designate only the name of the lawyer, without adding "lawyer," "Esquire" or a similar identifier, or the lawyer's role within the firm.

7. In N.Y. State 704 (1998), the inquirer asked whether an attorney's relationship with the firm (e.g., partner, associate or of counsel) must be disclosed on personal letterhead and professional cards. We concluded that it would be ethically permissible to use personal letterhead or professional cards that did not provide any information on the attorney's role in the firm, as long as the omission was not false, deceptive or misleading and did not violate any statute or court rule. We also stated "we have not found any rule or ethical authority that suggests that the nature of the precise status of an attorney in the law firm must be indicated on the letterhead." We noted that that the language in DR 2-102(A) -- the predecessor provision in the Code of Professional Responsibility that corresponds to Rule 7.5(a) -- did not require any particular information to be included on a lawyer's professional card or letterhead but instead provided a non-exclusive list of information that might permissibly be included. We said:

While DR 2-102(A)(4) states literally that "a letterhead identifying the lawyer by name and as a lawyer" is permissible, we believe that provision to be enabling and not limiting.

See also N.Y. State 932 (2012)("Rule 7.5(a)(i) provides a non-exclusive list of the content of a lawyer's professional card. It provides that the card may contain [the enumerated items]"); N.Y. County 682 (1990) (An associate's professional card need not indicate the fact that the associate is

only an associate as opposed to a partner in the law firm; as long as the individual is a lawyer, further designation of the lawyer's status in the firm is not ethically required.)

8. We would not reach the same conclusion with respect to firm letterhead that listed both partners and associates. See N.Y. County 612 (1973) (firm letterhead must differentiate between partners and associates); N.Y. City 890 (1977) (same). For example, N.Y. County 612 states:

It has been a long established practice in New York City for law firm letterheads to distinguish between partners and associates thereof by a separating line, enlarged spacing between the classes or otherwise. On the letterheads of many law firms only the names of partners are listed.

In light of such strong precedent it would appear misleading to all who receive such non-differentiating letterheads to depart from the usual form of separation between partner and associate. Absent some clear form of differentiation . . . the letterhead would constitute in the mind of a recipient a representation that all the listed names were those of partners. The public is entitled to know the status of those listed on the letterhead.

We agree with that reasoning. Furthermore, we believe the practice of distinguishing between partners and associates on letterhead also exists throughout the state. Typical methods of making the distinction include using a separating line between partners and associates or listing partners and associates on different sides of the letterhead. Because the practice of distinguishing between partners and associates on letterhead is longstanding and statewide, a law firm's failure to do so would be misleading within the meaning of Rule 7.1 and therefore would violate Rule 7.5(a).

CONCLUSION

9. We conclude as follows:

A. If two lawyers, X and Y, form a law firm that is a professional corporation, the law firm may not be called simply "X & Y". The firm name must also contain "P.C."

B. A law firm name need not expressly refer to the firm as a law office, e.g., "Law Offices of X & Y." It is sufficient that the firm is identified as "X & Y, P.C."

C. On personal letterhead and professional cards, it is sufficient to identify lawyers by their name (with or without "Esq.") without a designation of position within the firm, e.g., "partner," "principal" or "associate".

D. On firm letterhead that lists both partners and associates, a law firm must distinguish between partners and associates, such as by using a separating line or by listing partners and associates on different sides of the letterhead, because failure to distinguish between partners and associates would be misleading.