

# *The Supreme Court of Ohio*

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

41 SOUTH HIGH STREET-SUITE 3370, COLUMBUS, OH 43215-6105  
(614) 644-5800 FAX: (614) 644-5804

OFFICE OF SECRETARY

## **OPINION 87-004**

October 16, 1987

*[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]*

*[Not current-subsequent rule amendments to DR 2-107, eff. Aug. 1, 1990].*

**SYLLABUS:** A lawyer may announce his or her availability to act as a consultant to, or associate of other lawyers, provided the announcement complies with the Code of Professional Responsibility.

**OPINION:** We have before us your request for our opinion on whether it is ethically proper for an attorney to send an announcement that he or she is available to act as an associate of other lawyers in a particular branch of the law. Your proposed letter of announcement states:

"Dear (Fellow Attorneys):

I am available to act as an associate of your office in the representation of clients with Workers' Compensation Claims.

Located in downtown Cleveland near the State Office Building, I can work on claims which may be unprofitable for you to handle yourself.

Full disclosure of division of attorney fees will be made to your client. I will be calling you shortly to see if you have any interest in referring these cases."

Under DR 2-105 (A) (3) of the Code of Professional Responsibility a lawyer is permitted to announce his availability to other lawyers to act as their consultant or as an associate for their law practice. Therefore, if your letter is dignified, true and accurate, then you

will be in compliance with the Code. Bear in mind, however, that the Code discourages announcing any special competence or experience in EC 2-13, and referral fees are prohibited in DR 2-103(B).

In regard to the division of attorneys' fees, DR 2-107 allows an attorney to divide fees with another attorney if the client, after full disclosure, consents to the arrangement. In addition, any fee division between lawyers should be commensurate with the services performed and responsibility assumed by each. EC 2-21.

Finally, the last paragraph of your announcement letter indicates a follow-up call will be made by you shortly after receipt of the letter. Although the Code does not address this specific issue, we advise against any follow-up communication on your part or any reference to it in the announcement letter. See e.g., Committee on Ethics, Maryland State Bar Association, Opinion No. 84-104 (1984). It is our belief that no follow-up communication should be made unless the recipient responds positively to the first, written announcement.

In conclusion, it is our opinion, and you are so advised, that a lawyer may send a letter to other lawyers announcing his or her availability to act as a consultant or an associate in a particular branch of the law provided such an announcement adheres to the restrictions set forth above.

**This is an informal, non-binding advisory opinion, based upon the facts as presented and limited to questions arising under the Code of Professional Responsibility. This Opinion does not constitute the approval or endorsement of the text of the proposed letter contained herein.**

JAMES W. MASON, Esq.  
Secretary  
Board of Commissioners  
On Grievances and Discipline