

# *The Supreme Court of Ohio*

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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## **OPINION 90-3**

Issued April 20, 1990

*[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]*

**SYLLABUS:** An associate or partner in a law firm shall not be designated as "Of Counsel" on the firm's letterhead. An older attorney who has merged his office with another law firm, has a continuing relationship and has practiced law for several years may be designated as "Senior Attorney" on a firm's letterhead.

**OPINION:** We have before us your request for an advisory opinion on the following question: When a law firm merges with a retiring attorney, who will then become a salaried employee, may the law firm designate that lawyer as "Senior Attorney" on the firm's letterhead? You indicate that your own research suggests "of counsel" would be inappropriate.

"Senior Attorney" is not defined in the Code of Professional Responsibility. Any communication by a lawyer regarding his or her professional status shall not contain any misleading claim. Code of Professional Responsibility DR 2-101(A).

An "Of Counsel" designation is not appropriate for an "associate," salaried employee. Disciplinary Rule 2-102 (A) (4) allows a lawyer to be identified on a law firm's letterhead as a lawyer with any information permitted under DR 2-105 (limitation of practice). The designation of a lawyer as "Of Counsel", is permitted by DR 2-102 (A) (4) as long as the relationship between the lawyer and the law firm is a continuing one. The lawyer may not be a partner. The relationship must be a "close, regular, personal relationship, for example, the relationship of a retired or semiretired former partner, who remains available to the firm for consulting and advice." ABA Committee on Ethics and Professional Responsibility Formal Op. 330 (1972).

The "Of Counsel" lawyer is a "member or component part of that law office, but his status is not that of a partner or an employee. ...The "Of Counsel" lawyer is compensated as a sui generis member of a law office. Id. The Code of Professional Responsibility lacks specific definitions of lawyer and law firm relationships other than the "Of Counsel" designation.

The central meaning of "senior" is "the elder." Black's Law Dictionary 1222 (5th ed. 1979). Adding "Senior" to the word "Attorney" is not misleading when used to designate the number of years the particular attorney has practiced law, and does not infer importance in rank or estimation. Therefore, the "Senior Attorney" designation on a law firm's letterhead would not violate the Code of Professional Responsibility in our opinion. However, we suggest separating the senior attorney on the letterhead from the other associates and partners on the letterhead to avoid misleading the public.

Based on the foregoing, it is our opinion and you are so advised that an older attorney who has merged with your law firm may be designated as "Senior Attorney" on your firm's letterhead. Such a status line is not misleading under the circumstances stated.

**This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Professional Responsibility.**